

STATE OF CALIFORNIA
THE RECLAMATION BOARD
REGULAR BOARD MEETING

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FRIDAY, NOVEMBER 17, 2006

9:07 A.M.

KATHRYN S. KENYON, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Mr. Dan Fua, Supervising Engineer

Mr. Scott Morgan, Legal Counsel

Ms. Lori Buford, Staff Assistant

DEPARTMENT OF WATER RESOURCES

Mr. Jeremy Arrich, Acting Chief, Flood Inspections Program

Mr. Gary Bardini, Chief, Hydrology and Flood Operations

Ms. Annalena Bronson, Environmental Scientist

Mr. Rod Mayer, Chief, Division of Flood Management

Mr. Dave Paulson, Chief, Flood Operations Branch

Mr. Keith Swanson, Chief, Flood Maintenance Office

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Larry Dacus, Three Rivers Levee Improvement Authority

Ms. Lisa Kirk

Mr. James Morgan, Butterfield-Riviera East Community
Association

Mr. Joe O'Connor, Butterfield-Riviera East Community
Association

Ms. Victoria Petrovsky, U.S. Army Corps of Engineers

Mr. Wes Tilton

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

	PAGE
1. Roll Call	1
2. Closed Session - No Closed Session	
3. Approval of Minutes - September 15, 2006	2
4. Approval of Agenda	3
5. Public Comments	5
6. Report of Activities of the Department of Water Resources	26
7. State of Emergency - Board Actions	44
8. Three Rivers Levee Improvement Authority Monthly Report	46

CONSENT

9. Consent Calendar	62
---------------------	----

REQUESTED ACTIONS

10. Project or Study Agreements	
A. American River Common Features - Mayhew Levee Project	69
B. Water Resources Act of 1999 - American River Common Features	62
C. American River Watershed (Natomas Feature) Project - Postponed	3
11. Property Management	90
12. Enforcements	90
13. Applications	
Application No. 17659-A, River Partners, Glenn County - Postponed	4

INDEX CONTINUED

PAGE

INFORMATIONAL BRIEFINGS

14. Assembly Bill 142 - Tentative Expenditure Plan
And Future Flood Control Activities 90

15. Preparations for the Upcoming Flood Season 119

Board Reports

16. Board Member Comments 158

17. Report of Activities of the General Manager 150

18. Future Agenda 169

19. Adjourn 180

- Reporter's Certificate 181

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON CARTER: Good morning, ladies and
3 gentlemen. Welcome to the State Reclamation Board meeting
4 for November.

5 If we can have our General Manager Jay Punia
6 please call the roll.

7 GENERAL MANAGER PUNIA: Jay Punia, general
8 manager, Reclamation Board.

9 For the record, except for Board Member Teri Rie,
10 all the Board members are present.

11 CHAIRPERSON CARTER: Very good. Thank you.

12 I would also like to announce that we have a new
13 member on the Rec Board staff, and we would like to
14 welcome Lorraine Pendlebury, and General Manager Punia has
15 a few words of introduction.

16 GENERAL MANAGER PUNIA: I just want to share that
17 we are glad to have Lorraine as our office assistant. And
18 Lorraine comes to us from Division of Safety of Dams of
19 the Department of Water Resources. She was executive
20 secretary for division chief for the Safety of Dams.

21 And before working with the Department, she was
22 working with the Peace Officers Standards and Training.
23 And before that, she was in the private industry, and she
24 had extensive experience. And we are glad to have her as
25 a part of our team.

1 CHAIRPERSON CARTER: Welcome, Lorraine. We look
2 forward to working with you.

3 Okay. I don't know if it was -- if it was
4 publicly noticed, but the staff did advise the Board that
5 there was no closed session this morning to discuss
6 litigation. So we did not hold the closed session earlier
7 this morning.

8 So at this point, we will entertain a motion to
9 approve the minutes of September 15th, 2006.

10 SECRETARY DOHERTY: With two exceptions, I would
11 like to propose that the minutes be accepted. And those
12 additions to the minutes are on Page 6, the paragraph
13 under Vice President Hodgkins. At the very end, Ms. Rie,
14 I believe it was, also stated that she did not want to
15 have to approve requests we get the very day of our
16 meeting.

17 And the next correction is, beneath the final
18 paragraph, Mr. Carter said we need to participate in
19 legislation and need additional staff to expedite
20 applications.

21 But with those two exceptions, I make a motion we
22 approve the minutes as presented.

23 BOARD MEMBER BURROUGHS: Second.

24 CHAIRPERSON CARTER: Okay. We have a motion and
25 second to approve the minutes as amended.

1 Any discussion?

2 All those in favor, indicate by saying "aye."

3 (Ayes.)

4 CHAIRPERSON CARTER: And opposed?

5 Okay. Motion carries.

6 Next, approval of the agenda. Are there any
7 suggested amendments to the agenda this morning?

8 GENERAL MANAGER PUNIA: Yes. Staff wants to
9 recommend changes to the agenda on page -- front page,
10 Item 8 will be presented by Mr. Larry Dacus instead of
11 Paul Brunner.

12 On Item 10, DWR staff wants to -- wants the Item
13 10.B be heard before 10.A. And on Item 10.A.3, they want
14 to remove the word "construction" off the -- they want the
15 "Approval for the project"; "Approve Mayhew Levee
16 Project." If we can remove the word "construction" off
17 that.

18 Similarly, on 10.B.2, "Approve the project" rather
19 than "Approve construction of..."

20 Item 10.C, DWR staff is still negotiating with the
21 Sacramento Area Flood Control Agency. They were hoping
22 that they would be ready. They are not ready and
23 requested that the item be removed from the agenda.

24 SECRETARY DOHERTY: Is that the entire Item C?

25 GENERAL MANAGER PUNIA: 10.C.

1 SECRETARY DOHERTY: Okay.

2 GENERAL MANAGER PUNIA: And Item 13, Application
3 No. 17659-A, River Partners Glenn County, based upon the
4 Reclamation Board, Reclamation staff is still working with
5 the River Partners and the Local Levee Maintaining Agency.
6 And at this time, they are not ready to present this item
7 to the Board. So we tabled that. Scott, it will be still
8 tabled and it will come back to the Board.

9 Those are the proposed changes to the agenda for
10 the Board's consideration.

11 Thank you.

12 CHAIRPERSON CARTER: Are there any other suggested
13 changes to the agenda for today?

14 So we have a presenter change in Item 8; moving
15 10.B to be heard before 10.A; amending the language in
16 10.A.3 to approve the Mayhew Levee Project; and 10.B,
17 approve -- 10.B.2, approve the project; removing item 10.C
18 entirely, and item 13 entirely.

19 I will make a motion to approve the minutes as
20 amended.

21 SECRETARY DOHERTY: I will make a motion to prove
22 the agenda with the changes.

23 CHAIRPERSON CARTER: I'm sorry. Approve the
24 agenda, as changed, yes.

25 BOARD MEMBER BURROUGHS: I will second that.

1 CHAIRPERSON CARTER: We have a motion and a
2 second.

3 Any discussion?

4 All those in favor, indicate by saying "aye."

5 (Ayes.)

6 And opposed?

7 Okay. The motion carries.

8 At this time, we have Item 5, which is public
9 comments. This is the time where any member of the public
10 may address the Board on any item -- any item that is of
11 concern to them that is not agendized for today. They are
12 welcome to comment on agendized items as we discuss those
13 items on the agenda, but these are for unagendized items.
14 And we would ask that any member who does want to speak
15 whether it's agendized or not, please fill out one of
16 these cards so that we know to recognize you.

17 There are these cards on the back table at the
18 entrance to the auditorium as well as available from Lori.
19

20 So at this time, I have two cards.

21 This would be Wes Tilton. Mr. Tilton, please.

22 MR. TILTON: Good morning, Mr. President and the
23 Reclamation Board. My name is Wes Tilton. I live in
24 Discovery Bay.

25 I am concerned about maintenance of levees. This

1 is the community of 9,000 people, 5,000 homes. It
2 protects at least -- the levee system protects at least
3 \$1.5 million in real estate and lives. And with the
4 current decision, the appellate court decision, it states,
5 and it is a published decision as of August 15th -- I want
6 to thank Mr. Bradley because he took my phonecalls. He
7 has a copy of it, so I'm sure you're all aware of it. But
8 it states that "No public agency that is in charge of
9 impoundment of water, dams or canals, or levees, has no
10 mandatory duty to maintain that structure to Army Corps of
11 Engineer standards.

12 Now, Discovery Bay, as you can see and probably
13 well know, this is a newspaper article that was published
14 in Sunday. And I can make it available to you. But
15 anyway, it shows all the homes there. And in the article,
16 they don't mention anything at all about the court case
17 and that the local reclamation district does not have a
18 duty to maintain to any standards whatsoever.

19 And as I'm sure all of you are aware, FEMA Title
20 44, says that if you want to enjoy NFIP, then you must
21 maintain the levee to Army Corps of Engineer standards.
22 The judges said that even though the levee where my house
23 is located, and my house is on top of the levee, failed --
24 it slumped over four feet -- that that was on the garden
25 variety negligence, and I could not sue the district and

1 recover my damages even though my house and property is
2 damaged, either in tort or as inverse condemnation.

3 And the district did not have a duty to maintain
4 the levee to Army Corps of Engineer standards. They went
5 and they drove sheet pile in the water; never in the
6 waters in the United States without a permit from the Army
7 Corps of Engineers. This is fact. It can be seen because
8 they published it in their construction documents. They
9 claim they have a permit. They did not. They have the
10 permit to drive piling. That is different than sheet
11 piling, as you all know. But they drove sheet piling,
12 about 170 feet of it. It is still -- it is now falling
13 over and failing again. As the documents, I believe Lori
14 so kindly copied -- and it's this document here; it shows
15 how the levee was constructed on the first page.

16 On the second page, it shows how my house is on
17 top of the levee. And at no point is there a road on top
18 of the levee. The access road is actually below the
19 height of the levee. The access road is below the height
20 of the levee.

21 I sent a document to Mr. Bradley. I'm sure he's
22 shared it all with you and all that. That was on the
23 20th of last month.

24 And then over here, it shows the tension crack and
25 how the levee slumped down over 4 feet. And then it shows

1 that the depth of the water is 26 feet. They only drove
2 the sheet pile 30 feet. I'm not so sure that that passes
3 any kind of engineering standard.

4 The -- this would be on Page 3. There we go.

5 (An overhead document was shown.)

6 MR. TILTON: There. And as it notes there, those
7 are all facts.

8 Now, in the court case, the judge did not allow a
9 jury trial nor did the judge allow discovery. It was just
10 a done deal. Judge Zúñiga -- and it is a trial
11 transcript, can be provided for you. She said, and I
12 quote, "I know all about the levees in Discovery Bay.
13 This has no bearing in this courtroom."

14 And she discounted it. I took it to the appeals
15 court. The appeals court, as Mr. Ed Thomas who is the
16 lead counsel for Michael Baker Corporation, who I'm sure
17 you all know and work with, because he is the FEMA --
18 Michael Baker Corporation, for those that don't know, is
19 the FEMA librarian and their field representative, and Ed
20 Thomas and their chief counsel.

21 And I sent him the decision, and he said it was
22 very circuitous and around about, and he couldn't
23 understand why they did what they did, and that Discovery
24 Bay had a really good chance of being decertified.

25 Now, that means that there would be no federal

1 money; Highway 4 would be in jeopardy; no federal money
2 for the backing for the mortgages there; everybody would
3 be on their own.

4 I don't know if this is what California intends,
5 but it is law. The appellate judges have spoken.

6 The Reclamation Board knows. The Reclamation
7 Board, as part of CALFED, has sent money to the
8 Reclamation District 800 to maintain their levees to Army
9 Corps of Engineer standards. They have accepted the
10 money, \$5.8 million worth over the last six or seven
11 years. And yet they tell you, they are not going to
12 maintain the Army Corps of Engineer standards.

13 My question is: Why do you keep sending them
14 money? And why is it nothing has been said about this
15 with the bond passage of this billions and billions of
16 dollars, why is it that we don't address the issue that
17 there's no public agency in the state of California that
18 has a mandatory duty to maintain any levee, dam, canal, or
19 any other work to Army Corps of Engineer standards?

20 And as you well know, the levee by Discovery Bay
21 is one half of the California aqueduct. Five million acre
22 feet per year go by there. That's drinking water for
23 22 million Californians.

24 And as you well know, the white paper put out by
25 the Department of Water Resources identifies five

1 seismically sensitive areas on this particular levee.

2 The question I have is: What are we going to do
3 about this? They take the money, they spend it how they
4 want, and they leave everybody unprotected.

5 I ask for your help. This is on your watch. Your
6 actions determine your character. I ask for action from
7 you. I ask that you do what the Legislature has mandated
8 and not let a few attorneys or judges write the laws of
9 this fine state.

10 I appreciate the opportunity to come and speak
11 before you, publicly.

12 And the last thing I have to show you is on
13 Page 4.

14 (An overhead document was shown.)

15 MR. TILTON: The engineered failure rate. It
16 failed in '85. It was made in 1980. It failed in '85.
17 Twelve years later it failed again because all they did
18 was put rock on it. In '85 the engineers said they needed
19 to go in and bench it and recompact it. They did not do
20 it; they just put more rock on it. It's all peat, and in
21 2003, it failed.

22 And as you can see the failures are -- the more
23 they work, the quicker the failure. It's only a matter of
24 small time before we have complete catastrophic failure
25 here. And as you well know, the Department of Water

1 Resources says, "If a levee fails that ships this water
2 south, it would be a minimum of six weeks before any water
3 could be shipped anywhere because there's not enough rock
4 available to breach -- to fix the breach. And realize
5 that Discovery Bay and the levees there, you cannot breach
6 by driving on top of the levee, any breach, where I live.
7 Because the houses are on top of the levee, and they're
8 with -- they are at the edge of the levee. So there's no
9 road on top. You drive down below it. But floods, you
10 don't get there. You can only do it by boat or barge.
11 And that would be very difficult.

12 These are facts. I asked you not to take my word
13 for it, but to check it out. I'm available. This has not
14 been to the letter -- presidential executive order put out
15 by Jimmy Carter in 1977. It's Executive Order 11988. He
16 said if you want to develop in a flood plan, you must
17 adhere to the FEMA standards. Jerry Brown did the same
18 thing. Jimmy Carter did it in May. Jerry Brown put out
19 an Executive Order in September of '77. Deukmejian did it
20 again in '86. Governor Gray Davis did it in 2002. And
21 here we are today.

22 SECRETARY DOHERTY: May I ask you a question?

23 MR. TILTON: Yes, ma'am.

24 SECRETARY DOHERTY: There's a road that leads by
25 Discovery Bay and you turn off and you come in.

1 MR. TILTON: Yes, ma'am.

2 SECRETARY DOHERTY: Now where in relation to the
3 entry to Discovery Bay is this levee that you're speaking
4 of? You're not speaking of the levees where the houses
5 are built?

6 MR. TILTON: Yes, ma'am.

7 SECRETARY DOHERTY: You are speaking of those.

8 MR. TILTON: I'm glad you asked that question.

9 This illustrates it very well. Now, this is the
10 drawing made by Kjeldsen, Sinnock & Neudeck. This is
11 what -- how they determined the urban levee for Discovery
12 Bay, for FEMA.

13 The heavy dark line is what they call an urban
14 levee. The reason it jogs up like it does and comes
15 across and back down is because they need the elevation
16 there. That elevation, right up here where my finger is,
17 is over 7 feet higher than where the road is down here.

18 Now, you can see, there's no road up here. All
19 these houses -- this is the urban levee that protects this
20 over here. When I talk to FEMA, they did not have this
21 drawing. They do now.

22 This is -- they were upset that there was no
23 access road on top, yet Discovery Bay has enjoyed NFIP.

24 (An overhead document was shown.)

25 This is -- was produced by the Reclamation

1 District 800. As you can see, in 1997 they sent me this
2 in the mail. They said I had to maintain the main flood
3 control levee of where my house is. In other words, I
4 have to protect everybody in this whole area out here.
5 Well, I don't think that's quite cool. I don't have that
6 much money.

7 An urban levee can -- can only be maintained by a
8 public agency. So there's quite a few disconnects going
9 on here. But I'm available. I have an awful lot of
10 research. I know an awful lot. And when Mr. Pombo asked
11 Chris Neudeck to testify before Congress that it would be
12 a good idea if the Department -- the United States
13 Department of Reclamation sent \$10 million a year out here
14 for the next five years, Mr. Neudeck did not, and it is a
15 matter of public record, tell Congress that California --
16 no public agency in California has a duty to maintain the
17 Army Corps of Engineering standards. He did not tell him
18 that. It's a matter of public record. You can look it
19 up.

20 And this was 15 days after the decision. And
21 Mr. Neudeck is the engineer for Reclamation District 800.

22 I encourage you to ask for physical evidence, not
23 just what someone says, but physical evidence. And as we
24 all know, the superintendent for the district has
25 immunity, so no matter what he says, it is not credible.

1 CHAIRPERSON CARTER: Thank you, Mr. Tilton.

2 MR. TILTON: Thank you.

3 CHAIRPERSON CARTER: I trust we'll -- the staff
4 will be looking into this. There are a number of
5 questions, both technical and legal, and issues that you
6 brought forward. And we will look into this and Mr. Punia
7 will undoubtedly be contacting you.

8 MR. TILTON: Thank you very much. I appreciate
9 it.

10 CHAIRPERSON CARTER: Thank you.

11 Ms. Kirk?

12 MS. KIRK: Hi. Thank you for letting me address
13 you today.

14 I think Mr. Tilton's dilemma kind of presents a
15 dilemma that a lot of us are going through in non-project
16 levee areas. It's a disconnect between you, FEMA, Army
17 Corps of Engineers, Department of Water Resources.

18 And I know you would like to see the small
19 reclamation districts maintain. But when we start getting
20 into issues of planning and approval, it's beyond their
21 scope, and one agency needs to overlook that.

22 And I put in a public request in June because of a
23 project, Delta Cove and Bethel Island. I researched,
24 found documentation that said that the plan needed to go
25 before you, in 1964. And then even the Department of Army

1 Corps stated that -- he told the developer, "You know your
2 project will also require approvals from the Reclamation
3 Board and potentially the Department of Water Resources."

4 I have documentation that says that this project,
5 Delta Cove, should have come before you. A non-project,
6 we're taking an urban levee and attaching it to a
7 150-year-old add levee per a breach structure.

8 In any request, I also ask if we -- if the
9 district would be available to have money for that breach
10 structure, because that only has a 50-year life. It's a
11 very technical situation to attach an urban levee and an
12 add levee together. And I think the District is
13 desperately going to need help with that.

14 So I would really request that you honor my public
15 information request. And it's been since June, they have
16 started construction on Delta Coves.

17 There was supposed to be a crest elevation survey
18 of existing peat levee, which is -- which you are giving
19 75 percent of the money for. And I have not seen that --
20 that survey, although I have tried to get it. The
21 engineer for the -- that works for Contra Costa County
22 said that that needed to be done. And that way, they can
23 tell if there's any existing problems that happen to that
24 levee.

25 Also, the breach structure that they are going to

1 breach the structure, has been used for years to let
2 agricultural water in and flood the interior of the
3 island. And there have been cavities found there.

4 I have concerns with that site right now; there's
5 water that's piping up on one side of it. There's a large
6 drainage ditch right now that goes down Stone Road. It's
7 constantly wet. It's due to the construction. But the
8 impacts on the existing peat levee, that you're
9 responsible for -- and I do believe you're responsible,
10 because you give 75 percent of money, needs to be looked
11 at and needs your attention.

12 The reclamation district has not put this project
13 through any kind of approval. They have just dealt with
14 the engineers so there has been no public hearings on the
15 actual engineering. Again, I can't find that crust
16 survey. So again, really, there needs to be an
17 organization that oversees the construction of new
18 projects.

19 SECRETARY DOHERTY: May I ask you a question?

20 Is this Shelter [sic] Cove, is this a housing
21 development.

22 MS. KIRK: Okay. This was conceived in 1975 by a
23 developer. It breaches our existing levee. Contra Costa
24 County denied the project in the '80s. It went before a
25 judge. This was a project approved by a judge -- went to

1 a ninth circuit judge. And they approved it. So in 1989,
2 they came out with 33 conditions. The engineering on this
3 project wasn't done at this time. The EIR and the EIS is
4 from 1978 and 1979. Everybody has a hands-off approach.
5 Even our reclamation district says they were named in the
6 lawsuit. They were not named in the lawsuit; it was
7 specific to Contra Costa County.

8 So the review of this project, such a technically
9 difficult project. No one seems to have really any
10 oversight. Contra Costa County has a hands-off approach
11 because they were sued. There's got to be a connect
12 between local planning and state on these levees and the
13 projects that are coming before it. Delta Cove is an
14 animal in itself. It's an experiment that we're going to
15 deal with, but it needs oversight.

16 And the existing Stone Road levee in Bethel Island
17 needs oversight. So again -- you know, I was at this
18 Board before you changed. And Jeff Mount and Betsy
19 Marchand were looking at your jurisdictional powers over
20 non-project levees. And per the Water Code, I see that
21 you're responsible. And the fact that you give this
22 district 75 percent of the money to maintain those.

23 CHAIRPERSON CARTER: Ms. Kirk, it turns out that
24 staff has been working on both kind of reviewing the
25 project as well as our role in jurisdictions.

1 So maybe I will have General Manager Punia and
2 also our legal counsel respond to it. I don't think we
3 have a final answer yet, but we have done some work.

4 MS. KIRK: In the meantime, construction is going
5 on in that peat -- and that Stone Road levee is taking the
6 brunt of the construction. So I'm just here to tell you,
7 if something happens, I've informed -- you know, before
8 the opinion is out; okay? And maybe come down and take a
9 look at the project. Thank you.

10 GENERAL MANAGER PUNIA: Jay Punia.

11 President Ben Carter is correct. DWR technical
12 staff and legal staff is looking into the -- our
13 jurisdictions. And I will ask Scott to brief the Board
14 that where we are on checking into our jurisdiction in
15 this area.

16 Scott?

17 LEGAL COUNSEL MORGAN: And just for the record,
18 this is this Reclamation Board.

19 I've seen Ms. Kirk at a number of meetings. And
20 before, with the previous board, she's raised these
21 issues. And the Board generally doesn't get particularly
22 involved in delta issues. The exception -- the major
23 exception being the subvention program. I presume that's
24 what the funds are, that you are referring to, which the
25 Board approves annual expenditures for projects to

1 maintain, not exclusively, but mostly non-project levees
2 in the delta which are what these are, Bethel Island and
3 also at Discovery Bay.

4 In the case of the Bethel Island project, Dan Fua
5 had tracked down the history of this with regard to the
6 Board and he sent to me a draft letter. He's since sent
7 it to Ms. Kirk. And what he found was that back in, I
8 think, the '70s, the developer had sent a request for an
9 application -- an application for a permit to the Board.
10 And I think it was the general manager at the time wrote
11 back saying, "This is outside of our jurisdiction, and you
12 don't need a permit from us," and that was that.

13 Well, I saw that. So Dan's letter was saying,
14 "Well, this issue has been considered by the Board, you
15 know, many decades ago and that's the end of it." I
16 realize that wasn't technically true. That while it is
17 within the jurisdiction of the Board, the Board's
18 jurisdiction applies to the entire Sacramento and San
19 Joaquin River drainages and all their tributaries and
20 overflow areas. And so it's right at the edge, but still
21 within the jurisdiction of the Board.

22 So Dan and I talked about that. And he did some
23 more -- he contacted the developer for information; he
24 looked more through Board records to find out what was
25 going on. And he evaluated the project because even

1 though the Board has this broad jurisdiction, we've always
2 read that jurisdiction, which is in 8710, in light of
3 8723, which describes the grounds upon which the Board has
4 for refusing projects, where the plan may be injurious to
5 or damaging where it's necessary to any plan of flood
6 control or may interfere with successful execution,
7 functioning, or operations of any plan of food control
8 adopted by the Board of Legislature.

9 So those two sections are read in concert. And
10 even though the Board then has its broad jurisdiction, it
11 doesn't have necessarily the latitude to say no to
12 everything, if it's going to be clearly a project that has
13 no impact on flood control.

14 And so Dan looked at whether this project was
15 going to have any impact on a plan of flood control and
16 adopt legislature of the Board, and determined it was not
17 going to have such impact.

18 However, it doesn't stop there. There's also a
19 general requirement that any reclamation district that
20 wants to adopt and modify a plan of flood control has to
21 have those plans approved by the Board. And we have
22 had -- we have approved such plans in the past.

23 And similarly, that if an irrigation drainage
24 levee or flood control district wants to do similar work
25 that they have to provide their plans to the Board.

1 What we have here, however, is the Bethel Island
2 Municipal Improvement District. It's not a reclamation
3 district. It's not an irrigation district. It's not a
4 drainage district. It's not a levee district. It's not a
5 flood control district. It's none of those; it's
6 something else.

7 So at the point we were last month, it appeared
8 that they were not subject to the law requiring approval
9 of plans by the Board. But we went another step further,
10 and we looked at Bethel island -- special legislation that
11 created the district. And it has language saying that --
12 I'm paraphrasing; I don't have it written down -- that it
13 takes over the rights and responsibilities of the
14 reclamation district that it -- that it succeeds. So
15 arguably, it does need to have plans approved by the
16 Board.

17 What I think staff is going to recommend, because
18 this is a foray into an area of the Board that it doesn't
19 get particularly involved in. It's one thing to send a
20 letter to a reclamation district, or a successor to a
21 reclamation district, and say, "Please submit your plans
22 to the Board," and the Board review them to make sure that
23 they are not going to impact the state plan of flood
24 control.

25 But to do anything beyond that, to exercise any --

1 assert any rest of jurisdiction in the delta for anything
2 else, the standards of the levees and things like that,
3 goes beyond the past practice. The Board has really
4 concentrated on the project levees along the Sacramento
5 and San Joaquin Rivers in the valley, and not at the
6 delta.

7 So that would be something that I think going to
8 the Board for discussion, perhaps at the next meeting, and
9 let the Board set policy direction on how it wants to go
10 forward. There is some -- there are some mandatory
11 reviews included in the Water Code. And conceivably, both
12 these projects we've heard about this morning are subject
13 to that law and may or may not have complied with that
14 law.

15 But beyond a review that simply determines that
16 whatever they are doing there, good, bad, or otherwise, so
17 long as it's not going to have an adverse act on our plan,
18 we are satisfied with it. That may not satisfy the folks
19 who live out there. They want -- they may want the Board
20 to do more. So that's something the Board would have to
21 do, set a policy and have more discussion about it.

22 CHAIRPERSON CARTER: Mr. Fua, did you want to make
23 any comments?

24 SUPERVISING ENGINEER FUA: Actually, no. Scott
25 had already said everything that I would have said. Not

1 at this point. But it's true that I -- I did conduct an
2 investigation of the Delta Cove development, tracked the
3 history, and all of those things that I've got -- a lot of
4 documentation in our office that was provided to me by the
5 district.

6 CHAIRPERSON CARTER: And you physically visited
7 the site?

8 SUPERVISING ENGINEER FUA: I did.

9 CHAIRPERSON CARTER: Okay.
10 Mr. Punia?

11 GENERAL MANAGER PUNIA: I think Dan concluded
12 this -- the conclusion which was drawn previously that
13 there is no potential impact to the state and the federal
14 plan of flood control from this project.

15 CHAIRPERSON CARTER: So based on Scott's
16 recommendation, perhaps we ought to revisit this next
17 month to review the policy and either affirm the past
18 practice or -- or modify that.

19 Any issues with that?

20 VICE PRESIDENT HODGKINS: No. I think that makes
21 sense.

22 I would like to ask staff in preparing for that
23 discussion, perhaps in both these cases -- and it's a
24 little hard to understand what's going on from up here.

25 What we have here is urbanization that is taking

1 place behind levees, I guess, in the delta, although
2 helping us answer those questions might be helpful here.

3 But you know, my presumption is, whenever this
4 happens, there is a government agency with some expertise,
5 whether it be Contra Costa County or the State Reclamation
6 Board, that is reviewing the plans for construction of
7 levee improvements to make sure they would meet current
8 engineering practice for levees. And I would like to know
9 if, in this particular case, that's happened. And I may
10 be going beyond what's certainly the staff's normal --
11 normal role here. But I think that information might be
12 helpful to the Board.

13 CHAIRPERSON CARTER: Okay. Any other comments
14 from the Board or staff?

15 MS. KIRK: Can I just say one more thing?

16 CHAIRPERSON CARTER: Yes.

17 MS. KIRK: On Delta cove's -- you know,
18 everybody's --

19 CHAIRPERSON CARTER: Please come up to the
20 microphone, just for the record.

21 MS. KIRK: Everyone thought that the Army Corps of
22 Engineers reviewed the project. They only did it because
23 of the 401 permit. And they only -- they only looked at
24 the breach. They didn't look at the whole levee
25 construction in relationship to the existing levee.

1 Contra Costa County doesn't know anything about
2 levees; okay?

3 So there is really -- and FEMA only approved what
4 the developer gave them. So there's not really one agency
5 that looks at the whole picture. And that's part of the
6 problem is, there's not a standard. There's not one
7 agency. It's all disconnected. And the other problem is
8 everybody's trying to avoid the liability issue.

9 So -- but just in parting, in my request, I asked
10 if the breach structure -- this is a sheet piling breach
11 structure that's going to connect two very different kinds
12 of levee systems -- can we get subvention monies for that.
13 Because as a resident there, I have a concern that we're
14 not going to have the financial wherewithal to replace a
15 breach structure in 50 years. We didn't even meet a
16 minimum five H&P standards until about two years ago;
17 okay?

18 So we couldn't even find the funding for that. We
19 may get all these houses, we may not. I don't know what's
20 going to happen. But that breach structure, that's going
21 to come under over a subvention program. The new levee
22 won't.

23 Thank you.

24 CHAIRPERSON CARTER: Thank you.

25 Okay. Let's go ahead and move on.

1 Item 6, Report of Activities of the Department of
2 Water Resources.

3 Mr. Mayer?

4 MR. MAYER: Good morning --

5 CHAIRPERSON CARTER: Different sound system this
6 morning.

7 MR. MAYER: Yes, we do.

8 Good morning, President Carter, Members of the
9 Board, General Manager Punia. I'm Rod Mayer, chief of
10 Division of Flood Management.

11 And I would like to go through an update on DWR
12 activities. I trust you've received a report some days
13 ago.

14 I'm going to start with Corps PL84-99,
15 Rehabilitation Assistance. I think as previously
16 mentioned to you, there are 47 PL84-99 rehab sites that
17 are qualified for repair, which we are proceeding on; 40
18 of them are considered Order 1. That is, they protect
19 urban areas. And seven of them are Order 2, which means
20 they protect rural areas.

21 The sites have been divided between three
22 entities. Those three entities are the Corps of Engineers
23 taking on 22 of the sites; DWR taking on 12 of the sites;
24 and Brannan-Andrus Levee Maintenance District taking on 13
25 of the sites.

1 Construction is underway, currently, at about half
2 of the Corps's sites, and design is well underway at the
3 other Corps sites.

4 DWR has repaired five of its sites and seven of
5 the sites which are located in San Joaquin river flood
6 control system. Work will begin on some of those sites
7 starting as early as next week. Brannan-Andrus Levee
8 Maintenance District, their 13 sites are a little bit
9 behind. They are finalizing designs and going through the
10 environmental permitting process now. I don't expect
11 construction to start until a few weeks from now.

12 And we have entered into a \$25 million contract to
13 fund Brannan-Andrus Levee Maintenance District for this
14 work, using AB 142 funding. The contract is being
15 processed now. Brannan-Andrus has put a lot of effort
16 into design work at this point.

17 Regarding the errors, critical erosion sites, I
18 don't have a separate briefing for you today or anyone
19 coming up with a detailed briefing. And as you know,
20 there are 33 sites that have been determined critical
21 based upon the 2005 errors report and supplemental, which
22 had 24 sites, and a supplement to that, in two cases.
23 That's added nine sites in total, bringing it to 33.
24 Twenty-nine of those sites, the construction is done at
25 this point. It was wrapped up October 31st.

1 And there's still site cleanup and minor details,
2 but structural features are done. And 4 of those 33
3 sites, which were added as the last increment, those are
4 under construction at this point. Construction is being
5 wrapped up and will be concluded by the end of November.

6 The 2006 errors report identified another 24
7 critical sites, and the Corps and DWR have agreed to
8 divide the repair of those sites and to do the work as
9 quickly as possible. The Corps is taking on 14 of those
10 sites. DWR is taking on ten of them.

11 Currently, DWR has under construction four of
12 those sites. Two of them are on the upper Sacramento
13 River, and two of them are on Sutter Slough in the delta.

14 Four others, we expect to begin construction
15 around the end of this month or very early in December.

16 The remaining two DWR sites are going to be on a
17 somewhat slower track because they are likely to be
18 setback levees to be constructed on Cache Creek where we
19 have two new critical sites. And it's difficult to
20 construct setback levees during the winter.

21 The Corps, in constructing its 14 sites, is
22 somewhat behind DWR, and anticipates beginning
23 construction in late December on most of those sites. And
24 they intend to construct all of them through the winter.

25 We've had numerous meetings with resource

1 agencies. We've had great collaboration and cooperation.
2 We've worked through numerous design, review, and
3 permitting issues, biological consultations under
4 Endangered Species Act and Clean Water Act. We've been
5 working through those, and it's allowed to work to begin.
6 As I noted, four sites are under construction currently.

7 I would like to move on now to our revised
8 inspection and integrity evaluations procedures. Our
9 Integrity Inspection Branch and Division of Flood
10 Management has revised the abatement procedures for
11 unauthorized encroachments, has worked with Rec Board
12 staff in order to develop modified procedures.

13 These procedures have prescribed steps and
14 timeframes for accomplishing the steps; prescribed roles
15 for DWR and local maintaining agency; and the procedure
16 prescribes that if the -- after certain steps and notices
17 have been provided, if the unauthorized encroachment is
18 still in place, it may be removed during the course of
19 routine maintenance.

20 If that is not appropriate, if it can't be removed
21 during the course of routine maintenance, it would be
22 referred to the Board for a Board action.

23 We currently have a backlog of about 175
24 unauthorized encroachments that we intend to work through
25 using this new procedure.

1 Also, I've talked to you previously about the new
2 inspection procedures. And those new inspection
3 procedures call for self-inspection by the local agencies
4 during the summer and winter inspections, which previously
5 have not occurred. Inspections, previously and
6 historically, have been in spring and fall. And we have
7 not been fully in compliance with federal requirements of
8 having an inspection every 90 days. So the new inspection
9 procedure was established to bring us into full compliance
10 with the federal requirements.

11 It has not been a resounding success. Out of the
12 approximately 80 reclamation districts that perform
13 maintenance of the levees, in partnership with the
14 Reclamation Board, only 15 of them have complied by
15 submitting the summer inspection reports.

16 We have been working on revising the process, and
17 recently met just a couple days ago with Central Valley
18 Flood Control Association and reclamation district
19 representatives to discuss modifications to the process
20 that would reduce the inspection requirements but still
21 require an inspection during the summer and the winter.

22 And it seems like on the surface, that we are
23 going to get more support for this revised process that
24 we're negotiating at this point.

25 So we'll see where that takes us and if we're able

1 to get better cooperation for full compliance with the
2 federal inspection requirements.

3 SECRETARY DOHERTY: When -- when a district sends
4 people to -- is it flood fight school -- is that what it's
5 called?

6 MR. MAYER: Flood fight training.

7 SECRETARY DOHERTY: Does that increase their
8 knowledge of what to look for in case of a flood?

9 MR. MAYER: It certainly does. However, I would
10 say in general, reclamation districts are often -- the
11 ones that have been around awhile and the people that are
12 there, they know these things. The new people, the flood
13 fight training is very helpful for them. Also, lots of
14 times, local citizens interested in volunteering receive
15 flood fight training. And the flood fight training, we do
16 it statewide. So it goes way beyond the 80 or so
17 reclamation districts that we deal specifically with.

18 SECRETARY DOHERTY: Would somebody that had been
19 in training would be able to detect places along the
20 levees that might have problems?

21 MR. MAYER: Yes, although the training is more in
22 flood fight rather than inspection procedures.

23 SECRETARY DOHERTY: That's what I wanted to know.

24 CHAIRPERSON CARTER: Do these changes that you are
25 discussing with the Central Valley Flood Control

1 Association is -- we're reducing the requirements for --
2 for inspections but still doing inspections. What exactly
3 are we giving up?

4 MR. MAYER: Well, what we previously had required
5 is a full inspection with a full inspection report,
6 essentially identical to what our inspectors do. And they
7 are very concerned about the effort involved in putting
8 together those reports although we don't think that's a
9 huge effort. That is a concern on our part. And they are
10 also very concerned about the liability of reporting in
11 that level of detail.

12 So what we're working with them on, at this point,
13 is a much reduced reporting level, which essentially
14 says -- it's just a statement that they have done an
15 inspection and there hasn't been any significant change
16 since the spring inspection or since the fall inspection.
17 And if there is a significant change, what it is.

18 So that's the proposal that's on the table at this
19 point.

20 CHAIRPERSON CARTER: Okay. Thank you.

21 MR. MAYER: I would like to talk next about the
22 North Delta Program. North Delta Islands have had a long
23 history of flood issues and flood problems, most recently
24 in 1986 and 1997 floods.

25 Since the late 1980s, DWR has been working on

1 various studies to address the flooding issues and improve
2 water quality and habitat in the area.

3 In late June, DWR released its administrative
4 draft EIR for the North Delta Flood Control and Ecosystem
5 Restoration Project. And it has been addressing comments
6 from the 26 agencies that reviewed the administrative
7 draft ever since that time, in late June.

8 The document has two groups of alternatives
9 identified. And those two group are -- the first group
10 being controlled flood flows through the
11 McCormick-Williamson track, through levee lowering,
12 specifically on the east and south portions of
13 McCormick-Williamson.

14 Secondly -- the second group is detention storage
15 of flood waters on Staten Island.

16 Now, the public draft EIR is scheduled to be
17 released on December 29th. The big challenge that we
18 face, and have faced for years on this project, is that
19 there is no agency that has stepped forward, saying it has
20 an interest and willingness to be the long-term owner of
21 the project facilities and lands. And without such an
22 agency stepping forward, it makes it very difficult to
23 actually move forward and implement a project.

24 So we -- we have been hopeful that through the
25 release of the administrative draft, we might get comments

1 coming back to us that there is such an interest. We have
2 not received that at this point.

3 The next step is the public draft. And maybe that
4 expands our opportunity to solicit interest in ownership.
5 And we will see how that turns out.

6 Without such a long-term owner, it will be very
7 difficult to actually move forward and implement a
8 project. So our plan, at this point, absent any agency
9 stepping forward, would be to collect the public comments
10 we receive after the December 29th release, and then
11 conclude the report and not move further forward on it.

12 I also would like to talk about the Garmire Road
13 bridge replacement. Sutter County is in the lead, working
14 with Caltrans to fund bridge replacement at Garmire Road,
15 which is at the entrance to the Tisdale Bypass.

16 DWR has provided the environmental permits, the
17 hydraulic analysis, and the right-of-way contracts for
18 this work, through a contract with Sutter County. And
19 Sutter County is now at the point of requesting federal
20 funds through Caltrans.

21 If all goes well, we will -- Sutter County will be
22 able to advertise the construction contract in January,
23 and construction could proceed in 2007.

24 On Fremont we're -- I mentioned this to you at the
25 last meeting, that we were wrapping up work. The sediment

1 removal project has been concluded at this point, and we
2 only have site cleanup remaining and receiving work to be
3 accomplished.

4 With that, the project will be done, and we'll be
5 moving on to several other sediment removal projects that
6 are noted in your report.

7 CHAIRPERSON CARTER: Mr. Mayer, just out of
8 curiosity, how much material was removed from the Fremont
9 Weir, and where was it placed?

10 MR. MAYER: I haven't received a final tally, but
11 the estimate, as it was coming in, was it's going to be
12 very close to a million yards. I could get back to you
13 with the actual number, once I hear it. It was placed on
14 property owned by Wildlands at River Ranch site, which is
15 just east of the Fremont Weir.

16 We are working on planning efforts for both the
17 Bear River Sediment Removal Project and the Cherokee Canal
18 Sediment Removal Project. For the Bear River, we are
19 performing hydraulic model studies using recent survey
20 information. Once the model is calibrated, it will
21 allowed us to identify the specific work areas and
22 quantities of sediment to be removed. And that allows us
23 to establish a maintenance baseline information that is
24 necessary for our Section 404 permit for the sediment
25 removal project.

1 On Cherokee Canal, the modeling work is underway
2 for removal of sediment between the Richfield Byway and
3 Southern Pacific Railroad Bridge. It appears that in a
4 part of this breach that there is inadequate freeboard,
5 even if all the sediment is removed. So we'll be
6 exploring that further with our modeling. And that
7 reaches between Nelson Road and Richfield Road.

8 The intention is to have a first-stage sediment
9 removal project for the downstream 3-mile reach of this
10 reach that I just mentioned. And work on the Bear River
11 and Cherokee Canal will be scheduled for 2008.

12 In 2007, we intend to remove about 2 million yards
13 from the Tisdale Bypass. We're using AB 142 funds for
14 this work, and we're currently preparing the environmental
15 documents for securing the permits to allow the work to
16 proceed.

17 Do you have any questions?

18 SECRETARY DOHERTY: The last one, I heard, on the
19 amount of removal from the Tisdale Bypass was 1.5. So
20 they aren't restoring it to its original formation; is
21 that right?

22 MR. MAYER: That number has moved around a little
23 bit, and I'm not clear on why.

24 SECRETARY DOHERTY: I think it needs to go back to
25 its historic formation.

1 MR. MAYER: That makes a lot of sense, and
2 generally, that's the way we do these projects. So I
3 can't tell you exactly if that's the case or not. And if
4 that is the case, why we would not remove it back to
5 essentially historic or some increment slightly above
6 historic level. So I would have to get back to you on
7 that.

8 CHAIRPERSON CARTER: Mr. Mayer, maybe you or maybe
9 Mr. Fong could comment, with regard to all of these bypass
10 properties that the state owns. Some of them are actively
11 grazed; others are not. I'm wondering if the state has
12 considered doing more active grazing of some of these
13 things to manage some of the vegetation and maybe that
14 would reduce the accrual rate of sediment in these bypass
15 areas.

16 MR. MAYER: I would say we have considered it. It
17 is a challenge to set up the grazing. I think, as you
18 well know, fencing is typically the issue and how the
19 cattle are contained in the area.

20 I can't tell you specifically on each of these
21 breaches whether or not that's an appropriate activity. I
22 know we've looked at it, at Fremont, and I do think
23 it's -- the concern was interfering with some of the
24 activities of the Department of Fish and Game out there,
25 with respect to hunts.

1 At Tisdale, I don't know specifically whether or
2 not it would be an appropriate action.

3 SECRETARY DOHERTY: But on the bypasses, even
4 though Fish and Game then came in, it was first of all a
5 dedicated floodway; correct?

6 MR. MAYER: Correct.

7 SECRETARY DOHERTY: They still have to, as I
8 understand it, abide by the rules of the floodway.

9 So in other words, what I'm getting at is, I can't
10 all of a sudden tell you that all the way across, for
11 instance, the Sutter Bypass, that I shouldn't have a crane
12 rookery. It shouldn't be there because it is a bypass.

13 And what if, furthermore -- and I would have to
14 ask Scott this -- could someone then sue us because we're
15 not enforcing that clearance to be there? Could they?

16 LEGAL COUNSEL MORGAN: Well, the first answer is
17 that people can always sue us for anything. And I don't
18 know how successful they would be. Getting us to clear
19 out -- I'm not sure. Are you talking about property
20 that -- it's not our property; correct?

21 SECRETARY DOHERTY: It's a dedicated floodway.

22 MR. MAYER: We generally have easements. In the
23 case of Fremont Weir I believe we have fee title.

24 LEGAL COUNSEL MORGAN: And hopefully no one's
25 going to establish something on our fee title without our

1 permission. On the easements -- and hopefully we would be
2 able to enforce the terms of our easements, we would have
3 a difficult time against the federal government,
4 specifically if endangered species are involved.

5 We would have a particular problem in some of the
6 areas that are dedicated for flood use strictly because,
7 for instance, the basic -- where we don't have any
8 property rights at all. So that creates a special
9 problem.

10 SECRETARY DOHERTY: Thank you.

11 BOARD MEMBER BURROUGHS: Mr. President?

12 A couple comments:

13 One, you mentioned the appropriateness of cattle
14 for grazing. We've had discussion about goats. I didn't
15 hear about goats today. I was wondering if --

16 MR. MAYER: Actually we have looked into goats as
17 recently as about a year ago. We found it's very
18 expensive actually. We would have to pay for the goats to
19 do grazing in the areas that they want, rather than the
20 other way around. So it hasn't looked very promising to
21 us.

22 I think we've had better experience with cattle
23 leases than with goats. And I think there may be specific
24 applications where goats would be appropriate and probably
25 not so much in the large bypass areas, but maybe on

1 specific small channels that need to be cleared of
2 vegetation. It may be a cost effective way to accomplish
3 it and minimize permitting requirements to get the work
4 done.

5 BOARD MEMBER BURROUGHS: Thank you.

6 The second comment, and kind of a question with it
7 as well, in regards to -- you said the interference of
8 cattle with Fish and Wildlife. Can you be specific about
9 how the cattle would interfere with Fish and Wildlife if
10 the area that we're talking about the land is designated
11 for floodway?

12 MR. MAYER: Well, I think the issue is that there
13 are hunts out at the Fremont Weir sponsored by the
14 Department of Fish and Game. And if we have cattle in the
15 area, it raises a conflict in terms of hunting and cattle
16 in the same location. And how we work through that issue,
17 I don't know. We haven't worked through the issue at this
18 point.

19 BOARD MEMBER BURROUGHS: Well, I know cattlemen
20 that graze in a certain area only certain times of the
21 year. So it is possible to have the cattle out during a
22 particular hunt. But if -- if we -- the more important
23 thing about hunting is about maintaining an open floodway
24 so that the water does what it's supposed to do.

25 And if everyone else is required to maintain their

1 land, I -- I think it's imperative that we make sure that
2 a sister agency is doing the same.

3 MR. MAYER: Absolutely. We have no choice but to
4 maintain the bypass at capacity and remove vegetation.
5 It's just a matter of how we do it, whether it's with
6 mechanical means or herbicides or both or cattle or other
7 solutions. So in my mind, there's no doubt what we have
8 to do. It's just, which is the most cost effective way to
9 do it? And how do you do it in a way that's compatible
10 with other uses to the extent you could accommodate them.

11 I would be glad to look into grazing at the
12 bypasses and report back to you at some point on whether
13 or not there's any promise in that and what the issues
14 are.

15 SECRETARY DOHERTY: I had a tour, and I was at
16 O'Conner Lakes. And just off of O'Conner Lakes, it looked
17 like kind of an island. And they brought sheep in, but
18 then they had to tear up the brush because it was so
19 overgrown that the sheep couldn't get in to feed. So like
20 you said, sometimes it's a fish and sometimes it's not.

21 CHAIRPERSON CARTER: Mr. Hodgkins.

22 VICE PRESIDENT HODGKINS: A point that I think is
23 important to understand to most of the audience and the
24 Board as well is that the obligation of the State is to
25 maintain the capacity of the bypasses to the capacity

1 that's set forth in the project, at the profile that's set
2 forth in the project.

3 And maintenance staff is now, in effect, using
4 models and collecting information when they have flood
5 events that enable them to do this, to go back and, in
6 effect, determine whether the vegetation and the grazing
7 in the canal is causing a reduction from the design
8 capacity; okay? So they are focused on a specific amount
9 of water that they have to get through there, at a
10 specific level. And I think a lot of the rest of the
11 world focuses more on the idea of trying to maintain those
12 channels so that they will take the maximum amount of
13 water that it can.

14 And -- and while I understand that and support it,
15 I mean, I think that makes a lot of sense. I think it's
16 important to understand that that's not the legal
17 obligation or the obligation set forth in the O&M manual,
18 that the State is signing on to.

19 So there may well be vegetation in the bypasses in
20 places that impedes the flow of water. If it doesn't
21 impede it to the point where it's causing the water level
22 at the design flow to exceed the design elevation, then in
23 effect, I think, DWR is in a very difficult position if
24 they try to go to a resource agency and say, we want to
25 cause environmental damage that isn't required in order to

1 meet the design conditions of the project.

2 So it doesn't -- it doesn't meet any kind of a
3 common sense test, but it's -- it's the way the system
4 works; okay? There's a design capacity. That's what DWR
5 is obligated to provide. When they go beyond that, they
6 are, in effect, going beyond what they were directed to do
7 by the Congress of the United States and the State
8 Legislature. And they really don't have the power to do
9 that if someone is opposed to their doing that. And
10 that's sort of a engineers's definition, and I would
11 certainly ask Scott to clarify that, if he would like, as
12 necessary.

13 But I think as we start to go forward and deal
14 with this system, we've got to understand that there is a
15 design capacity and a design profile. And that's the
16 focus of the State's maintenance activities, not getting
17 the maximum amount of water they can through this.

18 Am I wrong? Is that correct?

19 MR. MAYER: I think you said it very well.

20 VICE PRESIDENT HODGKINS: Thank you.

21 CHAIRPERSON CARTER: Any other -- any other
22 comments?

23 Thank you very much.

24 MR. MAYER: You're welcome.

25 CHAIRPERSON CARTER: Mr. Mayer, are there any

1 other updates on legislative issues?

2 MR. MAYER: No, I don't have an update for you on
3 legislative issues.

4 CHAIRPERSON CARTER: Okay. Very good.

5 Okay. Let's move on to Item 7, State of
6 Emergency - Board Actions.

7 Mr. Punia?

8 GENERAL MANAGER PUNIA: Jay Punia. At the request
9 of the Department of Water Resources, the Reclamation
10 Board staff issued eight emergency permits for critical
11 erosion site repair work along the Sacramento River and
12 its tributaries.

13 Specifically, these sites are -- one site is along
14 the Sutter Slough in Yolo County; one site is on the Bear
15 River in Sutter County; and three sites along the
16 Sacramento River in Yolo County; one site along the
17 Sacramento River in Glenn County; and again, another site
18 on the Sutter Slough in Sacramento County.

19 Those are the permits issued to the Department of
20 Water Resources based upon the target allocated to the
21 general manager.

22 In addition to these activities, general manager
23 signed an amendment to the Cooperation Agreement between
24 the Corps of Engineers and the Reclamation Board for
25 repairing sites, under PL84-99.

1 The Corps indicated to the Department that we can
2 repair additional sites, so they added four more sites and
3 the Cooperation Agreement and the Department, giving
4 additional funds to the U.S. Army Corps of Engineers to
5 repair sites under PL84-99. And these sites added are two
6 sites which are the rural area sites, specifically the
7 sites are RD 827 in Yolo bypass, RD784. And one site on
8 Steamboat Slough.

9 So with this, the money the Department has given
10 to the Corps originally, under this Cooperation Agreement
11 was 30 million, and they are upfronted additional money;
12 now the total is 70 million.

13 Similar -- another Cooperation Agreement between
14 the Department of Water Resources -- between the
15 Reclamation Board and the Corps is being reviewed at this
16 time for the San Joaquin River System in which the
17 Department will again give the money to the U.S. Army
18 Corps of Engineers to fix the site under law AB 499.

19 And Scott has just finished his review, and we
20 will be signing this Cooperation Agreement on behalf of
21 the Reclamation Board and send it back to the U.S. Army
22 Corps of Engineers.

23 That's all I have to report. Thank you.

24 CHAIRPERSON CARTER: Any questions for Mr. Punia?

25 Very good.

1 Okay. At this point, let's take a ten-minute
2 recess. And then we will continue with Item 8 on the
3 agenda. Thank you.

4 (A break was taken in proceedings.)

5 CHAIRPERSON CARTER: Ladies and gentlemen, we'll
6 go ahead and continue with the meeting.

7 Our chief counsel has one comment.

8 LEGAL COUNSEL MORGAN: Just to mention that I
9 handed out to the Board members a copy of an article from
10 the November issue newsletter called California Water Law
11 and Policy Report. There are extra copies with Ms.
12 Buford, for any members of the public who would like a
13 copy of it. It's a little two-page summary of the Friant
14 settlement. And I know the Board has been interested in
15 that and is looking into it. And I thought that would be
16 of interest to the Board. And just so the public knows,
17 if they want copies, they are available.

18 CHAIRPERSON CARTER: Thank you.

19 On to Item 8, the Three Rivers Levee Improvement
20 Authority Monthly Report.

21 Mr. Dacus?

22 MR. DACUS: Good morning, President Carter and
23 Members of the Board, General Manager Punia.

24 My name is Larry Dacus. I'm with MBK Engineers.
25 And I am the design manager for the Three Rivers Levee

1 Improvement Authority.

2 I'm here this morning to update you on the status
3 of Three Rivers Program and RD 784 to repair those levees.
4 The weather has been very cooperative with us here at the
5 end of the construction season, and we've almost completed
6 all of our construction that we've had scheduled for
7 this -- this year.

8 Pump Station No. 6 has got electricity established
9 by PG&E of the electrical mechanical facilities. They are
10 testing those facilities. We hope to have that station
11 operational by the end of next week.

12 WPIC canal, we had asked for a time extension to
13 complete the riprap placement on that levee. Our
14 contractor has been very aggressive with that work. And
15 as I said, the weather has helped us out. We have
16 completed that concrete placement and are completing the
17 aggregate base for the patrol road, so almost complete
18 with that work.

19 Bear River seepage berms have been in place. The
20 Bear River Levee above Highway 70 has been completed.

21 The Yuba Levee seepage berms, all of the materials
22 for the seepage berms themselves have been in place. We
23 do need to cover those with some topsoil to establish and
24 vegetate the cover, and some cobble at the tow road for
25 erosion protection.

1 We have some facilities that we have negotiated
2 with Caltrans to replace some parking that they lost when
3 we replaced the seepage berms, and we haven't done that
4 work yet. We will do that work this winter, as quickly as
5 we can, weather permitting.

6 For the Bear River Setback Levee, that work is
7 done. All we have left to do is a list. It's called a
8 punch list. It is a list of those few items: cleanup
9 here, cleanup there, but that work is done as well.

10 The Yuba Phase 4 work that was the slurry wall
11 that we were replacing between the U.P. railroad and
12 Simpson Lane, all that work has been done. We have placed
13 patrol road on top of the levee. We have buttoned that
14 contract up for this winter.

15 We had hoped to come back to this Board to talk
16 about the three- to four-tenths that we did not raise the
17 levee to achieve our three-foot -- for 200-year. We were
18 not able to do that. We did not feel comfortable leaving
19 that levee exposed for any other -- longer length of time.
20 So we have completely closed that contract off for this
21 work.

22 What that remains for -- the only levee that
23 remains for work is the Feather, the Phase 4 Feather, as
24 we call it. We do have 35 percent plans specifications
25 that are undergoing, to review Segments 1 and 2. We had a

1 meeting with Corps of Engineers and DWR on
2 November 10th to discuss that, as well as the field trip,
3 to look at that area. We're moving forward with that
4 design. And our plan is to go to construction next spring
5 for those two segments.

6 We had -- the Three Rivers Board had planned to
7 approve the EIR for the entire project, but it also
8 included a -- Segment 2, which is the segment that is
9 currently undergoing an alternatives analysis for either
10 strengthened in place or a setback-type alternative.

11 With the passage of Proposition 1E, we think that
12 might offer an opportunity to obtain some additional
13 funding for a setback alternative. Three Rivers is
14 coordinating with DWR. We also are talking with other
15 stakeholders about the opportunity. And so that decision
16 has been put off for several more weeks now, as we
17 complete the coordination.

18 I included our -- included in your packets this
19 morning was a set of time inundation maps. They look like
20 this. These are for four different levee break scenarios:
21 one on the Yuba; one on the Feather; one on the Bear; and
22 one on the WPIC.

23 The purpose of these maps is to show emergency
24 personnel that should a breach occur at one of those
25 locations, how long it takes the wavefront to reach

1 certain areas in RD 784. These maps have been placed on
2 Three Rivers's Web site. They have been given to Yuba
3 County Office of Emergency Services for their use and
4 updating their evacuation plans.

5 That really completes my status report.

6 I'd be glad to answer any questions that you may
7 have.

8 CHAIRPERSON CARTER: Any questions for Mr. Dacus?

9 SECRETARY DOHERTY: Yes, one of my concerns is, in
10 touring the area, I noticed the western interceptor canal
11 west levee appears to be higher than it originally was.

12 My question is: If we have flood control rights
13 out there, to the east, and historically the water
14 never -- well, it would go up, but not lots of it, and
15 then it would go on down. Now, with this, what appears to
16 be a higher levee on the west side, is not more water
17 going to flow to the east and perhaps those residences
18 over there would be flooded, where historically they have
19 not?

20 MR. DACUS: Well, you are correct in that we did
21 raise some of the WPIC levee in this work.

22 The other -- the other thing that we did was that
23 by doing the Bear River setback levee, that opened up the
24 Bear River floodway, so that the hydraulics have actually
25 lowered flood elevations in that area, along that canal.

1 So that the hundred year -- previous hundred year
2 is now, as I recall, about a foot and a half lower because
3 of the work that we did along the Bear River as well.

4 SECRETARY DOHERTY: But then if you had done the
5 work on the Bear River, why was it necessary to raise the
6 western levee on that interceptor canal?

7 MR. DACUS: Well, even our hydraulic analysis
8 indicated that to achieve the 3 foot of freeboard over the
9 200-year, we did need to raise the levee in a couple of
10 places.

11 SECRETARY DOHERTY: So did you raise it all, on
12 the east side?

13 MR. DACUS: No, not on the east side.

14 SECRETARY DOHERTY: Well, that's -- that's a
15 concern I have.

16 Now, on these maps, you've got 48 hours, 24, 12,
17 hours. You don't show any of this water moving, like, at
18 Plumas Arboga Road. Directly below that, you've got a
19 dotted line.

20 Now, is that not going to be flooded? Is Plumas
21 Arboga Road, that area where the red makes that V in here,
22 will there be no water in there regardless of where it
23 breaks?

24 MR. DACUS: This map indicates areas that would be
25 flooded by a break at these locations. It doesn't -- it

1 shows that those areas would not be flooded by a break at
2 these locations, but they might be flooded by other --
3 during a break, you have other waters come from this east
4 side.

5 So these maps really pertain to the RD 784 area
6 within -- along Highway 70, there.

7 SECRETARY DOHERTY: So on the east side, will
8 there not be flood waters on the east side also?

9 MR. DACUS: There would be flood waters there, but
10 not necessarily from this break that has been modeled in
11 this -- on this map.

12 Waters that would enter this RD 784 from these
13 breaches would not get into that east side.

14 SECRETARY DOHERTY: All right. That answered my
15 question. They raised the levee.

16 CHAIRPERSON CARTER: Any other questions?
17 Anything else?

18 Mr. Dacus?

19 MR. DACUS: If you have no other questions, I
20 think I'm done.

21 CHAIRPERSON CARTER: Mr. Hodgkins?

22 VICE PRESIDENT HODGKINS: I understand there was
23 some scrambling over permits. Is there -- are those
24 issues resolved?

25 MR. DACUS: To my -- to my opinion, they are

1 resolved.

2 VICE PRESIDENT HODGKINS: I will ask staff the
3 same thing.

4 CHIEF ENGINEER BRADLEY: Yes, we have resolved the
5 issues. There was some work that was started before the
6 permits were issued. We've taken care of all of that.
7 And the permits have been issued, and we reviewed the work
8 that had been done and accepted them.

9 VICE PRESIDENT HODGKINS: That's great.

10 And I would like to -- I know staff had to
11 scramble and probably get through some other things to
12 move these forward. I think this at least demonstrates
13 the kind of cooperation that I hope we will try to
14 understand in all cases where we do what we need to do in
15 order to make sure work gets done in compliance.

16 So thank you very much.

17 CHAIRPERSON CARTER: Any other questions?

18 SECRETARY DOHERTY: Well, when -- when that levee
19 on the west side was raised, was that done with a permit,
20 or was that just kind of in the building process or what?

21 LEGAL COUNSEL MORGAN: I believe it's part of the
22 permit. I will let Steve talk about that.

23 CHIEF ENGINEER BRADLEY: Yes. It's part of one of
24 the permits that you approved. I believe that was in
25 December 2005. They approved the setback levee. There is

1 also another permit that dealt with the interceptor canal.

2 That was approved over -- and I don't believe all
3 the i's have been dotted. The t's had been crossed at
4 that time. I did not catch that the levee was being
5 raised. I probably would have said something very similar
6 to what I did on the Yuba.

7 In truth, their levee raise, they have not
8 decreased -- or increased the flooding potential for the
9 design flood to the east. They actually lowered the water
10 surface so they actually have a little bit higher
11 protection. But if you got a flood that exceeded the
12 height of the east levee, it would flood to the east and
13 not to the west, where it may be equally flooded.

14 And I think these are fairly complex issues to
15 deal with. And I'm not really sure how they should be
16 dealt with. It would be a flood larger than the design
17 that would do that. And they do have better protection,
18 or a higher level of protection, because of the lowered
19 water surface in the Bear River from the levee setback.
20 So they are not worse off, if that makes sense.

21 SECRETARY DOHERTY: I see what you are saying, but
22 yeah.

23 BOARD MEMBER BURROUGHS: Well, the east side is.

24 CHIEF ENGINEER BRADLEY: No, no. They actually
25 have a higher level of protection than they had prior,

1 because they had lowered the water surface in the
2 interceptor canal about a foot, as I remember.

3 SECRETARY DOHERTY: They did clean out the area
4 for a greater flood capacity in the area.

5 CHIEF ENGINEER BRADLEY: So they would have to
6 have more water to get out to -- they actually have -- the
7 east already get -- we have flood easements over there,
8 and there is -- because there's water that comes down from
9 the creeks that were cut off by the interceptor canal.

10 We do have flood easements over there to elevation
11 60, where the area is allowed to flood all through that.
12 That was part of the thing about the interceptor canal is
13 that we also had easements to the west of the interceptor
14 canal to the north end, but we did not buy sufficient
15 easements up there. There was a problem of flooding the
16 streets.

17 SECRETARY DOHERTY: So you have flood easements up
18 through the elevation of 60, or is there a road called 60?

19 CHIEF ENGINEER BRADLEY: No, up to the elevation
20 of 60.

21 SECRETARY DOHERTY: Oh, okay. All right. All
22 right.

23 CHIEF ENGINEER BRADLEY: And so there's a
24 significant area on the east side that is subject to flood
25 flowage easements.

1 VICE PRESIDENT HODGKINS: Can I talk a little bit
2 more about this, because this is a very fundamental issue
3 that the Board is going to have to deal with over and over
4 and over. And I think it's important to understand.

5 And what I would like to do is, if it makes sense
6 to the rest of the Board, come down and try to use them
7 out to help you understand what's happened here; okay?

8 Can you put the -- one of the maps up on the
9 overhead? Here's the area we're talking about. And
10 here's the levee that's being referred to as the East Side
11 Levee. Correct me if I'm not on the same page. But this
12 levee is the East Side Levee. And the levee that was
13 raised was the levee along here.

14 SECRETARY DOHERTY: The levee where you pushed
15 your finger, up on the north, the dotted line, there's not
16 a levee there, not to my knowledge.

17 VICE PRESIDENT HODGKINS: All right. Steve's
18 going to help me out. This may have been a bad idea.

19 SECRETARY DOHERTY: Maybe there is, you know; I
20 just don't recall seeing it.

21 CHIEF ENGINEER BRADLEY: There is a -- Steve
22 Bradley, chief engineer of the Reclamation Board.

23 There is a levee on the interceptor canal on the
24 west side that starts at the Bear River, runs all the way
25 up, makes a turn under the Highway 70, and ends right

1 adjacent to the railroad. So there is a levee here.

2 This portion of the levee that was running east
3 and west was actually never constructed to the elevation
4 with freeboard. It was about 3 feet low. And in fact,
5 this is where you approved the -- right in this area,
6 here, on the west side of 70, is where you approved the
7 applicant, Three Rivers Levee Improvement Authority, to
8 construct that pump station. So now this area is a local
9 detention basin right in here. And there's a pump station
10 that will pump into the interceptor canal and will move
11 local drainage into that, which will of course come down
12 into the Bear and Feather and on into Sacramento.

13 This is the east levee of the interceptor canal
14 here. And this is the levee along Dry Creek, here, I
15 believe.

16 And we have flood easements or flowage easements
17 that kind of cover this area up through here. And so all
18 this area here -- and I believe part of this area is
19 covered with flowage easements.

20 Is that clear?

21 SECRETARY DOHERTY: How far out do these flowage
22 easements extend?

23 CHIEF ENGINEER BRADLEY: They go out to elevation
24 60. And I don't believe they cross the highway, but I'm
25 not quite sure about that. They are right up adjacent to

1 that area.

2 SECRETARY DOHERTY: So what happens now, if
3 because of that change, you exceed 50 feet? Then would
4 you have to put a ring levee around these people's homes,
5 over there?

6 CHIEF ENGINEER BRADLEY: If it exceeded the
7 elevation of 60, it would exceed the design flood in the
8 Bear River. And like I said, they have -- there are
9 improvements in the Bear River; lowered the water surface
10 around a foot, about a foot and a half at the lower end,
11 about nine-tenths at the upper end. So you have actually
12 more flood capacity in there. It shouldn't even get as
13 high as 60 under the design flood.

14 Now, if you exceed the design flood, it could
15 exceed elevation 60, but that's not what the system was
16 designed to protect against.

17 Does that make sense?

18 SECRETARY DOHERTY: Yes, yes, it does.

19 CHIEF ENGINEER BRADLEY: It's kind of a larger
20 flood. It's like if you have a 200-year flood and you're
21 only protected against a hundred; that's just way nature
22 works sometimes.

23 SECRETARY DOHERTY: That's why we have floods,
24 huh?

25 CHIEF ENGINEER BRADLEY: Yeah. The big one's out

1 there. We just don't know when it's coming.

2 VICE PRESIDENT HODGKINS: This entire levee -- I
3 won't say the entire levee, but I think most of this levee
4 was raised; okay?

5 And that raise provided a higher level of flood
6 protection on this side, because it's designed at a
7 200-year flood to provide 3 feet of freeboard; okay?

8 The reason it was allowed -- and I think the
9 raising of that levee was part of the prior permit, but
10 that's really not the issue here -- is that in opening up
11 the Bear, by constructing the setback levee, they removed
12 a restriction that was causing water to back up, up here,
13 for something up to, say -- and I'm picking numbers out of
14 air -- but maybe 150-year flood; okay?

15 So once they set that levee back, all the water
16 level up here, end up in between these, will now be lower
17 for events up to 150 years.

18 When we get a much bigger storm, what's going to
19 happen is the situation before, assuming that the levees
20 were on the east side and the west side were exactly the
21 same level, and were constructed exactly the same, when
22 the water got high enough, in some storm -- and I don't
23 know if it's a 200 or a 300, because it goes over the top
24 and both areas flood; okay?

25 What raising the levee did is preclude that on

1 this site. So I think at the very least, the bottom line
2 is, in a storm that is bigger than what the project was
3 designed to handle, the project -- the levee raising has
4 now precluded flooding on this side and potentially
5 increase the amount of flooding that would occur on the
6 other side; okay?

7 So it hasn't made these people flood more
8 frequently. But in this very large storm that's way
9 beyond what this system was ever designed to protect
10 anybody from, they are now going to flood a little worse.
11 And we're going to have to deal with that issue everywhere
12 in this system when we try and deal with the question of
13 raising levees to protect urban areas.

14 And the issue that's going to be tough to resolve
15 is what represents fair and equitable treatment of people
16 who now potentially have been subjected to more flood
17 damage than they were before the levee was raised? Not
18 more frequent, but potentially more damage.

19 And I'm going to stop there, because we can go
20 further. But it gets -- starts to get lost in the
21 engineering of flood damages; okay?

22 CHAIRPERSON CARTER: Thank you.

23 VICE PRESIDENT HODGKINS: So that's our challenge
24 coming up.

25 CHAIRPERSON CARTER: Thank you.

1 Thank you very much, Mr. Dacus.

2 BOARD MEMBER BURROUGHS: I would like to know if
3 there's any legal comment as per this decision?

4 CHAIRPERSON CARTER: Is there any legal comment?

5 LEGAL COUNSEL MORGAN: Just by way of just general
6 information background, I know and I suspect General
7 Manager Punia, during his general manager report, will
8 talk about the efforts to get a group together to work out
9 the technical issues, from an engineering standpoint, on
10 what kind of projects have what kind of physical effects
11 on flood control.

12 Once they have that analysis, the legal office can
13 work out some kind of system for evaluating which of these
14 effects is likely to have legal consequences. And I want
15 to stress that we're -- we're not here when -- we talk
16 about liability, we're not here talking about eternal
17 liability; we are concerned about the failure of the
18 system because of deficiencies, but maintaining -- we are
19 imparting physical damage to someone's property that would
20 not have occurred by flood changes to the system, and if
21 they are compensable or not.

22 So if there's no hydraulic impact, the answer is
23 simple; there's no impact, there's no legal consequence.
24 If there is impact, we have to determine whether it's
25 significant enough that we have to identify and either

1 mitigate for it or compensate the people who are going to
2 be damaged.

3 CHAIRPERSON CARTER: Okay.

4 BOARD MEMBER BURROUGHS: Thank you.

5 CHAIRPERSON CARTER: Thank you. So more to come.

6 All right. We have no items on the consent
7 calendar, so we're moving on to Item 10. And we will
8 start with item 10.B, Water Resources Act of 1999 -
9 American River Common Features.

10 Ms. Bronson?

11 MS. BRONSON: Good morning, President Carter,
12 Members of the Board, General Manager Punia, and members
13 of the audience.

14 I'm here to talk to you about improving the
15 Resolution 06-27 to improve the American River Watershed
16 Investigation and Common Features, as modified by Water
17 Resources Development Act of 1999.

18 And before I do that, I would like to go through a
19 little bit of a history with you, because when I talked
20 about this with somebody on our staff a while ago, they
21 said, "Oh, this is the first time I understand why it's
22 called common features," and I think it might be helpful
23 to go through this.

24 And I'm going to start from the beginning. Back
25 in 1986 when we had, as many of you or most of you may

1 recall, we had severe flooding in the valley. And after
2 that, there were a lot of reevaluation of the flood
3 control system. It performed reasonably well, actually.
4 But there was still things that needed improvement, and
5 many projects were introduced after that.

6 One of them was the American River Watershed
7 Investigation. And in '91, there was a document out and
8 the Environmental Impact Statement, Environmental Impact
9 Report. That project proposed a dry flood control dam in
10 Auburn. The intent was to reduce flood damages from the
11 American River. And as it happened, there were a lot of
12 people opposing the dam in Auburn, and Congress did not
13 authorize that project.

14 So in 1996, the Corps and the Reclamation Board
15 and SAFCA came back with another report that was called
16 the American River Watershed Supplemental Information
17 Report. And that document had, I think, two Auburn dam
18 alternatives: one, 400-year flood protection; one,
19 200-year. They were both dry dams. That is, there would
20 be an opening to just slow down the water and then not --
21 let it come back slowly. It was not a reservoir.

22 There was also an alternative in -- in that
23 document that was called the Step Release Plan. And that
24 proposed operational changes at Folsom Dam and massive
25 levee improvements downstream throughout the system,

1 throughout the bypass, to handle the huge storm without
2 the dam in Auburn.

3 And again, Congress did not authorize the Auburn
4 dam. But it did look at alternatives and pulled out all
5 the features that were common to all of them: mostly levee
6 improvements, slurry wall, that sort of thing, and called
7 it the common features. And they authorized that.

8 And that is part of that 1996. There were
9 extensive slurry walls put into the American River, both
10 sites of the levee. And in 1999, Congress modified the
11 common features by adding additional measures. And one
12 included the raise of the -- in 1996, 4,000 feet had been
13 approved for levee raising on the north bank of the
14 American River, and it was extended to 11,500 feet. There
15 was a measure to reshape the levee near Natomas East Main
16 Drainage Canal to strengthen the levee on the American
17 River near north bank Jacob Lane, and to raise the levee
18 near Mayhew Drain and to construct a Mayhew Drain closure.

19 That closure is necessary because the Mayhew Drain
20 is a gravity drain, and during really high water flows,
21 water will back up to it and flood Folsom Boulevard and
22 other areas. So there needs to be something put in there.

23 And an environmental assessment initial study was
24 prepared for these features that were approved in '99 and
25 circulated for review in 2001. And at first, it included

1 a standard levee at Mayhew. Many comments were received
2 and some of them should have been in your package. Most
3 of them focused on the levee portion at Mayhew. The
4 concerns that you heard through several meetings in the
5 past were raised then. The heritage oaks, the
6 encroachment into the parkway, and so on.

7 So the Corps redefined this levee project to
8 include the floodwall to protect the heritage oaks. And
9 the Corps signed a finding of no significant impact for
10 that. But there were still comments from the local
11 community that there was too much land taken out of the
12 parkway. And the Corps and the Board and SAFCA kind of
13 felt that, yes, maybe we should take a closer look at
14 Mayhew and do something different and take a closer look
15 at it. So that's where our efforts have been focused.

16 And this document, for 1999 modifications, have
17 never been taken to the Board for CEQA clearance or for
18 approval.

19 And there are two reasons to bring this to you
20 now: And that is that the CEQA compliance for the Board,
21 in '99, it's necessary for us to sign a project
22 cooperation agreement with the Corps and the local cost
23 sharing agreement with SAFCA to -- in order to construct
24 the Mayhew Levee, next year, and the closure structure.

25 And when we, in the future, start looking at

1 constructing the features -- for example, the 11,500 feet
2 levee raise and Natomas East Drainage Canal, Jacob Lane,
3 we're going to come to you with a new environmental
4 evaluation and a document, because it's been too much time
5 passed.

6 So today, I'm going to ask you to approve the
7 resolution, to approve the negative declaration minus the
8 Mayhew Levee feature; and to approve the project; and to
9 approve the Mitigation Monitoring Plan that should have
10 been attached in your packet.

11 Any questions?

12 CHAIRPERSON CARTER: Any questions for
13 Ms. Bronson?

14 SECRETARY DOHERTY: So you want a negative
15 declaration?

16 MS. BRONSON: Yes, there should have been a
17 negative declaration in your packet. It was actually
18 prepared back in 2001. And I need to be -- we would like
19 to have that approved by you with a statement that it
20 doesn't include the Mayhew Levee feature, as described in
21 that negative declaration.

22 CHAIRPERSON CARTER: Does everyone have that
23 mitigated negative declaration?

24 GENERAL MANAGER PUNIA: In 10.B, I do.

25 CHAIRPERSON CARTER: Okay.

1 MS. BRONSON: If you will see, this packet with
2 the comments -- this starts with comments and responses,
3 and then there is a environmental assessment initial
4 study, and attached to that is the mitigated negative
5 declaration. Actually, it's from March 2002. It's
6 attached all in one packet. And I sent a separate one
7 with a sign-in sheet.

8 CHAIRPERSON CARTER: Okay. Any questions for
9 Ms. Bronson?

10 Any comments?

11 SECRETARY DOHERTY: No, but I think it's time that
12 we move forward with this.

13 MS. BRONSON: Agree.

14 CHAIRPERSON CARTER: I do have a couple cards from
15 the public.

16 Mr. O'Connor, Mr. Morgan, you have asked to speak
17 specifically with regard to Mayhew Levee.

18 Do you want to wait for item 10.A then?

19 UNIDENTIFIED MALE: Yes.

20 CHAIRPERSON CARTER: Okay. Very good. Just
21 wanted to check.

22 So we'll entertain a motion to approve Resolution
23 No. 06-28, to approve the Mitigated Negative Declaration,
24 to approve the project, and to approve the Mitigated
25 Monitoring Plan.

1 VICE PRESIDENT HODGKINS: So moved.

2 SECRETARY DOHERTY: I will second that.

3 CHAIRPERSON CARTER: Okay. We have a motion and a
4 second.

5 Is there any discussion?

6 Okay.

7 All those in favor, indicate by saying "aye."

8 (Ayes.)

9 CHAIRPERSON CARTER: And opposed?

10 Rose Marie, did you vote?

11 BOARD MEMBER BURROUGHS: I haven't.

12 CHAIRPERSON CARTER: Okay. Do you abstain?

13 BOARD MEMBER BURROUGHS: I haven't said anything
14 yet.

15 CHAIRPERSON CARTER: Do you have a question?

16 BOARD MEMBER BURROUGHS: If I may have one minute,
17 please.

18 CHAIRPERSON CARTER: Sure.

19 BOARD MEMBER BURROUGHS: Thank you.

20 Aye.

21 CHAIRPERSON CARTER: That's a vote "aye" to
22 approve the Resolution 06-28?

23 Okay.

24 So the resolution is approved by a vote four --
25 unanimous.

1 MS. BRONSON: Thank you.

2 CHAIRPERSON CARTER: Okay. Now on to Item 10.A,
3 American River Common Features - Mayhew Levee Project.

4 Ms. Bronson.

5 MS. BRONSON: This is Annalena Bronson again,
6 environmental scientist for the Board.

7 And for this item, we have Tim Kerr, the engineer
8 here, and also Veronica Petrovsky from the Corps, if there
9 are any engineering questions.

10 I believe that we went through this project pretty
11 thoroughly in October, with PowerPoint and discussions.
12 And the background history of this project is the same as
13 for 1999, up to the point where we split off the Mayhew.

14 And for the last several years, we have worked on
15 a joint environmental impact statement and environmental
16 impact report for the Mayhew Levee Project. And we
17 actually made a major effort to design a project that
18 could protect the neighborhood from flooding as well as
19 the heritage oaks and to minimize impact in the parkway.

20 We have attempted several designs. We hired an
21 arborist to look at the trees. We investigated the
22 feasibility of materials and construction methods
23 suggested by the Butterfield-Riviera Community
24 Association -- East Community Association.

25 And these efforts were described to you in last

1 month's meeting and were included in the informational
2 presentation, and it's summarized in the environmental
3 impact statement, environmental impact review.

4 In the end, of course, federal sponsor that would
5 provide 75 percent of the funding for the construction of
6 this project, has decided that for them, a standard levee
7 was the only option it would support. And the standard
8 levee is one that has a three-to-one slope on the water
9 side, and it doesn't include a floodwall. It does include
10 a slurry seepage wall though.

11 And flood management engineers are supporting the
12 Corp's decision, and SAFCA has agreed to also support
13 construction of a standard levee.

14 As proposed, however, the project will have a
15 significant environmental impact that cannot be mitigated
16 to a less than significant level. And for that reason,
17 I'm going to ask you to approve a finding of overriding
18 considerations for this project.

19 These impacts are to air -- to scenic resources
20 and to biological resources and to traffic and noise. And
21 if some of them are temporary, during construction, but
22 the scenic resources will be permanent because there will
23 be -- the beautiful trees will have to be removed during
24 construction.

25 The project will be mitigated on site and at an

1 area that's in the parkway, but it's outside the Board's
2 jurisdiction because it's not within the levee section,
3 and it's not within the designated floodway.

4 In order to do so, we are paying a fee to the
5 Department of Parks and Recreation of \$20,000 per acre of
6 mitigation that they will use for parkway improvements or
7 acquiring new lands.

8 BOARD MEMBER BURROUGHS: Is that five acres, or
9 how many acres is that?

10 MS. BRONSON: The five acres are on site. That's
11 what they are using to transplant elderberries and to
12 transplant as many of the oaks that are there, as we
13 probably can.

14 The rest of it is for compensation for
15 elderberries that were taken out, and also we are planting
16 the oaks associated with that, to compensate for the oaks
17 that are being removed.

18 So is there any questions from the Board at this
19 point?

20 CHAIRPERSON CARTER: Any questions from the Board?

21 SECRETARY DOHERTY: No, but I would like to make a
22 motion to approve.

23 CHAIRPERSON CARTER: I think Rosemary has a
24 question.

25 SECRETARY DOHERTY: Oh, I'm sorry. I didn't see

1 you.

2 BOARD MEMBER BURROUGHS: Yeah. On -- let's see.
3 It doesn't have a page number on it. Findings on Page 3.

4 MS. BRONSON: Oh, okay.

5 BOARD MEMBER BURROUGHS: Special status species.

6 I just really cannot understand that first
7 sentence: "Physical vibration and increase in dust could
8 affect 14 elderberry bushes." That seems absolutely
9 absurd to me.

10 MS. BRONSON: Actually, when you look at the Fish
11 and Wildlife Service's rules and regulations, they are at
12 this time considering dust and vibration as an impact to
13 the beetle, and that's why they regulate activities up to
14 150 feet of bushes that's inhabited by the beetle. And we
15 can argue whether that's actually the case or not, but
16 that's a regulation.

17 BOARD MEMBER BURROUGHS: I understand that for the
18 beetle. But if there's 14 bushes, is there evidence that
19 there's even beetles in these 14 bushes? Do you remember?

20 CHAIRPERSON CARTER: Could you introduce yourself
21 for the record, please.

22 MS. PETROVSKY: I'm Veronica Petrovsky. I'm the
23 project manager for the U.S. Army Corps of Engineers.

24 And I would need to look into that to answer with
25 regard to whether they are exit holes present in these

1 elderberry bushes.

2 MS. BRONSON: I don't remember if there are.

3 SECRETARY DOHERTY: It's in here, somewhere
4 though.

5 MS. PETROVSKY: I'm sure there is.

6 SECRETARY DOHERTY: You can look it up, if you
7 want.

8 MS. PETROVSKY: If you can provide me a copy, I
9 will look.

10 SECRETARY DOHERTY: All right.

11 MS. BRONSON: There are exit holes. I have been
12 told that there are. So there are beetles there that
13 would be impacted by the dust and vibrations.

14 MS. PETROVSKY: Would you like a number, or is
15 that sufficient information?

16 BOARD MEMBER BURROUGHS: Sure. I just -- that was
17 one question I had.

18 And I -- what science documents the physical
19 vibration has an effect on this beetle?

20 MS. BRONSON: I'm not sure what science Fish and
21 Wildlife Service used when they made this regulation.

22 There have been some studies done by other
23 biologists, later, that have a contrary view, but it
24 hasn't made those findings -- those findings haven't made
25 their way into the regulations at this point.

1 BOARD MEMBER BURROUGHS: Well, I understand that
2 that's a regulation. I just bring up the point that I
3 think it's ridiculous on that one part. And I know you
4 have to work within the rule, so that's my comment on
5 that. Thank you.

6 LEGAL COUNSEL MORGAN: I just want to say, staff
7 doesn't come to endorse or criticize any of the
8 regulations of Fish and Wildlife. They are trying to work
9 within the constraints of these regulations. And we don't
10 know. We don't have any expertise on really what they are
11 based on. We could invite Fish and Wildlife in, if they
12 would like to come in and explain it to us. But by the
13 time they get here, the beetle might be E-listed. So it's
14 a moot point.

15 I was just going to mention that we probably
16 should allow the public to make comments before there's a
17 motion.

18 MS. BRONSON: Yes, there has been desire by the
19 public to speak.

20 CHAIRPERSON CARTER: Any other questions from the
21 Board?

22 Mr. O'Connor?

23 Mr. Morgan first. Okay.

24 MR. MORGAN: Thank you and good morning. It's
25 still morning, I see. My name is Jim Morgan, and I'm the

1 lead person on the Flood Protection Committee for the
2 Butterfield-Riveria East Community Association, generally
3 abbreviated BRECA. As I've said before, BRECA has
4 established three objectives for this project. They are
5 in order of priority:

6 One, to improve the level of flood protection for
7 our community;

8 Two, to minimize the impact of the project on the
9 ecological resources of the American River Parkway; and,

10 Three, to minimize the impact of the project on
11 adjacent residences.

12 On the one hand, we are very pleased to see this
13 project moving along, and we are pleased to see that it
14 appears that there will be funding for construction in the
15 coming year.

16 On the other hand, we are very displeased that we
17 are essentially left with only one option for moving
18 forward, which is the conventional levee, which is the
19 most destructive of all the options which we looked at.

20 Our research does indicate that projects with less
21 impact and equal or greater protection can be designed and
22 built.

23 And for the record, I would like to say that we
24 believe there are a number of problems and shortcomings in
25 the Final Environmental Impact Statement and Report.

1 However, we believe that we need to be ready to
2 take advantage of the funding which appears to be ready
3 for the coming year so we can go to construction. And we
4 also believe it is unlikely that we are going to get a
5 less damaging plan out of the Corps at any time in the
6 near future.

7 And so we support approval of the resolutions
8 which have been put before you, including the flawed
9 Environmental Impact Document, Findings, and Cost Share
10 and so on and so forth.

11 I would like to raise two not particularly large
12 issues which are involved in -- the first one is in the
13 resolution, you have before you: No. 06-27. And on my
14 copy of it, is on the second page, there, where it says,
15 about halfway down, says, "Whereas, the joint EIS/EIR
16 discusses six alternatives," and it goes on to describe
17 all of them as being eight-foot tall. That's -- sorry --
18 I'm a techy person; I do techy work. Eight-foot tall is
19 simply wrong. There's only a short section of it is
20 that's actually eight-foot tall on the water side. Most
21 of it is something else, up to 15 feet tall around the
22 Gristmill entrance and down to zero at the top end. So
23 that's just technically wrong.

24 And we have been very far into that, because one
25 of our alternatives, you saved as much land as the

1 effective water height of the levee, so we in fact backed
2 out the water side height at 50-foot intervals for the
3 entire project. And as I said, most of it is something
4 besides eight.

5 You could solve that quite simply by deleting the
6 "eight." There's no reason for it to be in there. Or you
7 could say something like, "The height of the existing
8 levee plus two and a half to three feet," or you could
9 say, "160,000 CFS plus 3 feet," whatever. There are other
10 ways to get around it. But I would suggest that that's
11 inaccurate and should be deleted or modified before you
12 adopt that resolution.

13 Second item in the Statement of Findings and
14 Overriding Considerations, under "Recreation," it points
15 out, Alternative 6, conventional levee, "would convert
16 4.83 acres in the American River Parkway to flood control
17 levee and maintenance easement." And then there's going
18 to be some amounts of money put into the County of
19 Sacramento Parks Department Habitat Restoration Program.
20 But it doesn't specify how much money or what that money
21 is supposed to accomplish.

22 And so it really leaves very ambiguous what we're
23 going to get out of this. I would put to the Board that
24 if you really want to mitigate this to, you know, a low
25 level of impact -- of course buying land elsewhere doesn't

1 help our community, but it helps the Parkway, in general,
2 that you should, as part of your Statement of Findings add
3 that in principal, the Board would like to see the
4 equivalent amount of the land, 4.83 acres, acquired from
5 some party for the Parkway as a result of this. And so
6 that would be my suggestion on that.

7 Otherwise, you know, they could say, "Well, we
8 fully mitigated it by buying one inch of land somewhere,"
9 or whatever it could come out to be.

10 I know there's ongoing negotiations about this,
11 but I think the staff needs some direction on what is to
12 be accomplished here. And I think defining, you know,
13 acre per acre replacement is the best way to fly on that.

14 And so those are all my comments.

15 Any questions or comments people would like to
16 make?

17 CHAIRPERSON CARTER: Any questions for Mr. Morgan?

18 Thank you very much.

19 MR. MORGAN: Thank you.

20 CHAIRPERSON CARTER: Mr. O'Connor?

21 MR. O'CONNOR: Good morning. I am Joe O'Connor.
22 I'm with the Butterfield-Riveria East Community
23 Association.

24 I would like to start by making two points. We
25 agree that the Corps' standard levee will provide the

1 targeted flood protection. And it's not our intent or
2 ever our intent to ask any responsible person or agency to
3 take actions with which they are not comfortable.

4 As a community organization, we have been working
5 to improve flood protection for our area for nine years.
6 That is, a levee raised. About five years ago, the Corps
7 proposed a replacement levee that would increase the
8 levee's reach into the Parkway in an additional 60 feet
9 from the existing levee, seriously impacting the Parkway,
10 using about six acres of additional parkway space.

11 The short story is, is that starting about five
12 years ago, our community was formed -- our community group
13 was formed to work with the Flood Control Agency,
14 including the Corps, to see if all alternatives could be
15 developed that would provide flood protection at least
16 equivalent to the standard levee but would reduce the
17 impact on the parkway.

18 Another short story is that we did considerable
19 research also involving experts in the field, and a few
20 years ago developed an alternative with the assistance of
21 the Corps of Engineers that we were comfortable with.

22 A section of the partially screened -- a section
23 of partially screened floodwall to protect three large
24 oaks and the remainder of a levee with a two-in-one
25 geogrid stabilized water side slope to save parkway space.

1 We had hoped to have continuing discussions with
2 the Corps involving evaluations, inputs, and adjustments,
3 but the Corps personnel changes and six project managers
4 in five years, there developed a disconnect.

5 And this coordination ceased, although our
6 research did not cease. We still have confidence in the
7 basic proposal, with some data consideration given the
8 issues raised by the Corps of Engineers in the EIR
9 document. And we do have questions regarding the Corps's
10 reasoning for rejecting it and not including it as an
11 alternative. Regardless of the outcome, we do want the
12 project to move ahead on schedule so that we can get the
13 levee raised and flood protection for our community.

14 Thank you.

15 Any questions?

16 CHAIRPERSON CARTER: Any questions for
17 Mr. O'Connor?

18 BOARD MEMBER BURROUGHS: I have one quick
19 question. If it doesn't take too long to answer it, you
20 alluded to that you didn't quite agree with the EIR
21 report, that there were flaws in it.

22 Can you briefly explain that?

23 MR. O'CONNOR: Sure. With regards to just the
24 idea of the reinforced slope getting a two-to-one to save
25 about an additional acre of parkway space on that part of

1 levee system, the Corps rejected it because of what they
2 call surface sloughing, basically.

3 And we do note that there are sections of the
4 American River Parkway that do have two-to-one slope, and
5 it doesn't appear to be this surface sloughing.

6 We do admit, though, that a two-to-one slope is
7 eight degrees steeper than a three-to-one slope. That's
8 not a great deal, but it is steeper. And we do admit that
9 it probably would require more -- more maintenance into
10 the future.

11 The Corps also mentioned one of the reasons for
12 not considering it is that if they had the surface
13 sloughing, it would expose these layers of geogrid. That
14 may be true over the long run, but that would be an
15 indication, and that would tell the maintenance people
16 that there is surface sloughing and it could be filled in.
17 They had said that it would be -- it would be more
18 difficult in repairing the levee, but we don't -- you
19 know, eight degrees difference, we don't think that's a
20 big deal.

21 Does that answer your question?

22 BOARD MEMBER BURROUGHS: Thank you.

23 MR. O'CONNOR: Okay.

24 CHAIRPERSON CARTER: Any more questions for
25 Mr. O'Connor?

1 Thank you very much.

2 Okay. Could we get some clarification from staff
3 with regard to the comments about the resolution, the
4 eight-foot tall levee?

5 MS. BRONSON: I would be happy to change that to
6 an approximately eight-foot feel or average eight-feet
7 tall or something like that. The fact is, we are only at
8 30 percent design and, you know, these things may be
9 modified during design. And I'm -- we can say something
10 like that or take it out. But it is approximately
11 eight-foot tall.

12 CHAIRPERSON CARTER: Is it accurate to state in
13 Alternatives 2 through 6, to say that Alternative 2 is a
14 "standard 3,850-foot levee with a 450-foot floodwall"?
15 Does that accurately describe the alternative?

16 MS. BRONSON: Yes.

17 CHAIRPERSON CARTER: So we can essentially
18 accurately reflect the alternatives by deleting the words
19 "eight-foot tall" from each of those alternatives?

20 MS. BRONSON: Yes.

21 BOARD MEMBER BURROUGHS: Could I have our staff
22 also give comment on it, on where --

23 CHAIRPERSON CARTER: She is our staff.

24 BOARD MEMBER BURROUGHS: I meant -- I meant
25 specifically Steve Morgan, if he has any comment on that.

1 Excuse me, Mr. Bradley.

2 CHAIRPERSON CARTER: Mr. Bradley, do you have any
3 comments with regard to language in these alternatives
4 that are listed in the resolution?

5 CHIEF ENGINEER BRADLEY: No. I think that by
6 removing "eight-foot tall" from all Alternatives 2 through
7 6, still describes the project accurately.

8 BOARD MEMBER BURROUGHS: I said both names, and I
9 also meant Mr. Morgan also.

10 CHAIRPERSON CARTER: So Mr. Morgan?

11 LEGAL COUNSEL MORGAN: Yeah.

12 BOARD MEMBER BURROUGHS: Thank you.

13 LEGAL COUNSEL MORGAN: Certainly it reads
14 appropriately if you would replace the phrase "an
15 eight-foot tall, 4,300-foot-long levee" with the phrase "a
16 4,300-foot-long levee.

17 MS. BRONSON: Okay.

18 LEGAL COUNSEL MORGAN: Just change that one line.

19 MS. BRONSON: Okay.

20 LEGAL COUNSEL MORGAN: So "an eight-foot tall" is
21 replaced with "a".

22 CHAIRPERSON CARTER: Where are you reading?
23 That's different language than what I'm seeing.

24 BOARD MEMBER BURROUGHS: It's not different. He's
25 saying take out the language "an eight-foot tall" and

1 replace those four words and just say "a".

2 LEGAL COUNSEL MORGAN: This is the fourth whereas
3 from the bottom on the second page of the resolution.

4 Does this occur elsewhere in the resolution?

5 CHAIRPERSON CARTER: When you talk about all the
6 alternatives, just about that. All six alternatives are
7 listed.

8 SECRETARY DOHERTY: We just cross out "eight-foot
9 tall" from each of those.

10 LEGAL COUNSEL MORGAN: Okay. So yeah, just take
11 out the phrase "eight-foot tall" from each of those.

12 Would that be acceptable?

13 MS. BRONSON: Yeah, fine with me.

14 LEGAL COUNSEL MORGAN: And I believe there was
15 another comment from Mr. Morgan.

16 SECRETARY DOHERTY: Mr. O'Connor.

17 CHAIRPERSON CARTER: It was in regard to the
18 Statement of Findings with regard to the recreation
19 paragraph. He suggested that we be more specific about
20 land acquisition for mitigation.

21 MS. BRONSON: What's going on here? Is it, we are
22 going to mitigate in the American River Parkway, which is
23 administered by -- I think it's now called the Department
24 of Regional Parks. They feel that they have a valuable
25 asset in the parkway, and they are charging a fee for us

1 to mitigate in this area, which is an old agricultural
2 field that's going to be restored. And they are going to
3 charge \$20,000 per acre. That's how the fee is
4 calculated.

5 And we are purchasing approximately 12,000 --
6 12 acres from them. This fee is for -- for the Department
7 of Parks. They can use it for acquiring more land. They
8 can use it. It's up to their discretion. It's not up to
9 our discretion how they would use that fee.

10 But we do -- they do -- in the past, they have
11 said they were going to use this money for acquiring
12 inholdings and that sort of thing in the parkway.

13 CHAIRPERSON CARTER: So I guess -- in responding
14 to -- to Mr. Morgan's concern, what are the local
15 residents getting from this payment in terms of
16 mitigation? Do we have a good answer for that?

17 MS. BRONSON: They are not, perhaps, getting
18 anything in particular in this little stretch of the
19 levee, but it will be used for improvements to the parkway
20 in general.

21 LEGAL COUNSEL MORGAN: The other Mr. Morgan had
22 suggested that the Board include basically precatory
23 language, something to the extent that it's the Board's
24 wish that this money be used to replace land on a
25 one-to-one basis.

1 It certainly could be included. It wouldn't tie
2 the hands of the Parks Department and how they spend the
3 money that's being paid for the mitigation.

4 BOARD MEMBER BURROUGHS: I don't think we want to
5 add -- my comment would be, I don't think we want to add
6 any more holdup in negotiations. So I -- I'm not
7 proposing any changes on that part.

8 CHAIRPERSON CARTER: Would that be a zero stopper?

9 LEGAL COUNSEL MORGAN: One way or another, I don't
10 think it makes any difference. Just say, "We wish that it
11 be spent this way." That's all you are saying. You know,
12 if you don't put it in, it's not going to have an effect.

13 VICE PRESIDENT HODGKINS: Well, the 4.3 acres of
14 the land, you have no idea what that might cost. And I
15 think that's the reason for this Board not to try and get
16 too specific with this. And Mr. Morgan and the rest of
17 the community can work with the Parks Department to try
18 and find some appropriate use of the money.

19 So I just -- parkway land, the values are the main
20 reason that things haven't been bought. And so it's not
21 an issue that I think we want to get into.

22 CHAIRPERSON CARTER: Okay. All right.

23 BOARD MEMBER BURROUGHS: Was there a third comment
24 about wording on this?

25 CHAIRPERSON CARTER: I didn't --

1 BOARD MEMBER BURROUGHS: Was there only two?

2 CHAIRPERSON CARTER: I only got two.

3 BOARD MEMBER BURROUGHS: Okay. Thank you.

4 CHAIRPERSON CARTER: Did you have a comment? I'm
5 sorry?

6 MS. PETROVSKY: Yeah, I would like to comment
7 further on the mitigation.

8 CHAIRPERSON CARTER: Could you -- I'm sorry.
9 Could you introduce yourself again, because I missed it
10 the first time.

11 MS. PETROVSKY: Good morning. I'm Veronica
12 Petrovsky. I'm with the U.S. Army Corps of Engineers.
13 I'm the program manager and project manager for the Common
14 Features Program, and the project manager for the Mayhew
15 Levee Raised Project.

16 I just wanted to comment on the mitigation. The
17 mitigation that we are doing as a result of this project,
18 I wanted to clarify that it's not merely a one-to-one
19 ratio. We are going to be mitigating by transplanting
20 existing vegetation from the project site within the same
21 area of the project.

22 We are also, in addition to that, planting
23 additional plantings at a ratio specified by the Fish and
24 Wildlife Service in the Goethe area, or at least that is
25 the plan.

1 So it's more than a one-to-one ratio with regards
2 to acreage acquired, that we are -- and the plantings
3 required. We have also planned to replant staging areas
4 and -- and their impacts in the construction of the levee
5 raise.

6 I just wanted to clarify that it's -- it's more
7 complex than that. And the Environmental Impact Statement
8 and the Impact Report outlines the measures that we are
9 going to take with regards to mitigation for the project.

10 CHAIRPERSON CARTER: Thank you, Ms. Petrovsky.

11 Any other questions from the Board?

12 Ms. Bronson, did you have something to add?

13 MS. BRONSON: No, just to request that you
14 consider the resolution.

15 CHAIRPERSON CARTER: Okay. So we'll entertain a
16 motion on the item.

17 VICE PRESIDENT HODGKINS: So moved.

18 SECRETARY DOHERTY: I would second it.

19 CHAIRPERSON CARTER: So we have a motion and a
20 second to approve Resolution No. -- make sure I get these
21 right -- 06-27, to certify the EIR was prepared according
22 to CEQA and to adopt findings, including findings of
23 overriding consideration, to approve the Mayhew Levee
24 Project and approve the Mitigation Monitoring Plan.

25 Any discussion, further discussion?

1 VICE PRESIDENT HODGKINS: With the changes that
2 were made to the resolution.

3 CHAIRPERSON CARTER: Yes, with the changes with
4 regard to the references to the height of the levee.

5 Any other further discussion?

6 All those in favor, indicate by saying "aye."

7 (Ayes.)

8 CHAIRPERSON CARTER: And opposed?

9 The motion carries unanimously. Very good.

10 Thank you very much.

11 MS. BRONSON: Mr. President, I have one more
12 request. And that is, if you would, before lunch, sign
13 the notices of determination in which case I can go
14 upstairs, get my check, and across the street to the
15 clearinghouse and file that.

16 CHAIRPERSON CARTER: Were you paid today?

17 (Laughter.)

18 CHAIRPERSON CARTER: If staff is ready, we can do
19 that. We have to have some changes to some of that
20 like --

21 MS. BRONSON: This is just a notice of
22 determination. It's just a simple sheet of paper.

23 CHAIRPERSON CARTER: We can take care of that,
24 yes.

25 MS. BRONSON: Okay. Thank you very much.

1 CHAIRPERSON CARTER: Very good.

2 We have nothing on Property Management or
3 Enforcements or Applications at this point.

4 So maybe we can talk about Assembly Bill 142,
5 Tentative Expenditure Plan and Future Flood Control
6 Activities.

7 Mr. Mayer.

8 I bet you didn't think we were going to get to you
9 this quick.

10 MR. MAYER: I must admit, you surprised me.

11 Let me finish sending my e-mail.

12 CHAIRPERSON CARTER: We're on Item 14 on the
13 agenda.

14 MR. MAYER: I gave a presentation in late
15 September which Butch Hodgkins attended. It was the Urban
16 Land Institute Conference. They have an annual
17 conference, and they asked me to speak on the new
18 paradigm, emerging flood management.

19 Butch asked if I couldn't make the same
20 presentation or a similar presentation to the Board, here,
21 so that's what I'm doing. And at the end of the
22 presentation, I will then talk about AB 142 which we spoke
23 about a couple of months ago, and the Board's desire to
24 get a briefing on what the spending plan is for AB 142.

25 So I intend to take you through a little bit of

1 the presentation that I gave at that conference.

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 MR. MAYER: I will be covering the state of the
5 system, the old paradigm that we have been operating under
6 for many, many years, the emerging new paradigm that I see
7 before us, that we have many opportunities to shape how
8 that new paradigm is developed, and then AB 142.

9 --o0o--

10 MR. MAYER: The state of our system, as we all
11 know, is not very good. We had a couple of flood
12 incidents this year, and we mobilized the flood center.

13 This is a photograph of the flood center during
14 one of the those events. We had events both in January
15 and in April.

16 --o0o--

17 MR. MAYER: And these events were not very large.
18 In the green text, we see some fairly large events on the
19 Napa Russian Cosumnes River, which are outside of our
20 Central Valley Flood Control System, which Rec Board has
21 responsibility.

22 But in the yellow text, where we have our flood
23 control projects, we essentially had about a five-year
24 event on the Sacramento system, in January. And about a
25 ten-year event on the San Joaquin system in April.

1 --o0o--

2 MR. MAYER: And we had numerous problems. We had
3 waves going over the tops of the levees. We had levee
4 slumps, boils in many locations, removing soils out from
5 the levee or the levee foundation, and numerous erosion
6 sites.

7 --o0o--

8 MR. MAYER: This map shows, for the January event,
9 the locations of the various incidents in our system and
10 outside the system.

11 --o0o--

12 MR. MAYER: And we have another map showing the
13 April event and where we had all kinds of incidents that
14 were occurring.

15 Now, when I'm at the flood center and I'm seeing
16 this unfold --

17 --o0o--

18 MR. MAYER: -- it kinds of reminds me of my car,
19 and I've got a check engine light on my car, telling me
20 when something's going wrong.

21 And the way I look at it, we took our system out
22 for a ride, for a drive, and it's been in the garage for a
23 few years. Hadn't really been tested for a few years.
24 And we took it out for a drive and really didn't push it
25 very hard. Just a five-, ten-year event. And we've got

1 check engine lights coming on all other the place.

2 --o0o--

3 MR. MAYER: And it seems, in the flood center that
4 it happens about that quickly. And it's very difficult to
5 wrestle with.

6 --o0o--

7 MR. MAYER: And then in the April event,
8 essentially the same thing occurred. It happened a little
9 bit more slowly because this is a slower responding system
10 than the Sacramento system, down in the San Joaquin. And
11 it's very alarming when you think about it, that we can't
12 take this system out for a drive like this without having
13 check engine lights coming on all over the place.

14 --o0o--

15 MR. MAYER: And of course, it's very alarming when
16 you consider all the infrastructure protects from the
17 comprehensive study updated to today's dollars. We've
18 estimated about 56 billion in infrastructure protected by
19 our system.

20 And then we've got areas like over on the left
21 side, here, where there's great potential for much more
22 infrastructure if the floodplains aren't managed properly.

23 --o0o--

24 MR. MAYER: We've got forecasts for growth.
25 Approximately for the Sacramento Valley 80 percent growth

1 projected for the 200-year floodplain between 2000 and
2 2030.

3 --o0o--

4 MR. MAYER: We have similar growth projections for
5 the San Joaquin as well. I don't show those now, at this
6 particular time.

7 We also have very deep floodplains. This flood
8 scenario for the Sacramento area that we prepared for the
9 Legislature shows areas in yellow in Natomas and the
10 Pocket area, vast areas of land greater than 15 feet of
11 depth of flooding. And large costs for the flood impacts
12 the -- the direct impacts and even larger for the indirect
13 impacts.

14 --o0o--

15 MR. MAYER: Let's talk a little bit about the old
16 paradigm, the way it's been. It's at -- for one thing, as
17 I just mentioned, further floodplain developments
18 forecasted to increase by about 80 percent. And Urban
19 Lands Institute, they indicated they had different
20 numbers, but they are on the same order of magnitude.

21 --o0o--

22 MR. MAYER: Many of the developments -- most of
23 the developments that are within the floodplains don't
24 incorporate any floodplain management principals, and
25 there's been minimal liability for the developers, the

1 cities, and the counties.

2 Another key aspect of the paradigm has been
3 federal government, the Corps of Engineers that builds the
4 flood control projects. And historically, there's been
5 relatively generous federal funding in comparison with
6 state and local funding.

7 And almost always, it takes a decade or more to
8 deliver a federal project.

9 On average, I think the number is closer to 20
10 years. It's been very difficult to secure state and local
11 funding to implement these projects.

12 --o0o--

13 MR. MAYER: Continuing this old paradigm,
14 environmental compliance, in many cases, has slowed flood
15 protection implementation, either in terms of performing
16 maintenance activities in sensitive areas, like in the
17 channels or the bypasses, or in developing new projects.

18 A key aspect; the system that we have in the
19 Sacramento Valley was designed to handle a particular
20 historic flood, and we have particular design flows based
21 upon that particular historic flood, which was a hundred
22 years ago.

23 We don't form state maintenance areas where
24 maintenance is deficient. And historically, when
25 Department of Water Resources has brought to the Board

1 areas in reclamation districts where maintenance is
2 deficient and requested the Board to take action on that,
3 the Board has been very reluctant to do that.

4 Another aspect of the paradigm is that the Corps
5 performs the flood fights that require the heavy
6 equipment. We saw a huge change this year during the
7 April event. Department of Water Resources, historically,
8 has provided manpower, labor crews, sand bags, plastic,
9 Visqueen, stakes and twine, all the other things in terms
10 of a flood fight, except for the heavy equipment and the
11 rock, the bulldozers, the excavators, the barge cranes.
12 That's the stuff that, when it takes that, we call the
13 Corps in. There have been few exceptions to that. There
14 have been exceptions, but there have been few.

15 This year it was the other way around. And the
16 Corps came in with no heavy equipment. All they provided
17 was technical assistance.

18 Finally, the Corps does the post-flood
19 rehabilitation of the system. As you know, that's been a
20 real challenge this year because although the Corps is
21 very willing to do it, the Corps district, there is not
22 funding for them to do it. And so what they are doing,
23 they are doing with State funds.

24 --o0o--

25 MR. MAYER: So how are things changing? And how

1 is the new paradigm changing the way we do business?

2 --o0o--

3 MR. MAYER: Some of the thoughts I have is that I
4 think there will be legislation, of some form or another,
5 that comes out over the Legislature, and it's signed, that
6 affects land use planning and liability within flood
7 plans, especially the floodplains of the Central Valley
8 where the State system provides the protection. And that
9 will, in turn, affect the development forecast.

10 I tend to think that development, as a result of
11 that legislation, and as a result of just new thinking,
12 will incorporate floodplain management principals, such as
13 avoiding the deeper flooded areas, such as elevating
14 structures. And we're already seeing some of that, for
15 instance, with development that's proposed in Clarksburg
16 and Isleton, elevating these structures.

17 --o0o--

18 MR. MAYER: I think we're going to have much
19 better floodplain maps, versus the old paradigm. The maps
20 for the Sacramento Valley essentially, by FEMA, assumed
21 that the levees provide 100-year protection when there was
22 really very little technical basis to make that
23 assumption.

24 And the current technical requirements, in many
25 cases, as we look at these areas, we will find that these

1 requirements cannot be met and that the appropriate thing
2 to do would be to map the area into the FEMA 100-year
3 floodplain. And that, in turn, will inform landowners in
4 the floodplains.

5 As a result of legislation, I would think that
6 there's likely to be a little bit more liability for
7 developer cities and counties as development is approved
8 in the floodplains.

9 I think the state and locals are going to be
10 building projects. With the passage of the bond, I think
11 that's -- the Prop 1E, as well as proposition 84, I tend
12 to think that's inevitable; that is the road we're going
13 down. And we just need to figure out how to manage that
14 the best way possible, so that we can recoup federal, get
15 federal reimbursements, federal credits for what we are
16 doing, at least on the larger projects.

17 I don't think it's feasible that we're going to
18 get federal credit or reimbursement for a lot of the stuff
19 we're doing, and we'll just go ahead and do it without the
20 federal government.

21 I think it's going to be much easier to obtain
22 State funding.

23 When I wrote this, this was before the passage of
24 the bonds, so I think that forecast came through.

25 Local funding, I tend to think that will be easier

1 to secure. I think Proposition 218 is a big problem for
2 local areas. But on the other hand, the concern about
3 being mapped into the floodplain and mandatory insurance
4 and development restrictions is a huge driving factor for
5 these local agencies, motivating them to increase their
6 assessments.

7 Another -- another driving factor is that the
8 State has money through the bonds, and the locals will
9 need to provide matching funds in order to make things
10 happen and get high levels of flood protection.

11 I think that we can probably deliver projects a
12 little bit faster than the Corps has been able to do
13 historically. And we see some of that, for instance, with
14 the Three Rivers Project, probably cutting the time for
15 construction of these projects in half, maybe even less
16 than that.

17 --o0o--

18 MR. MAYER: Here's an example of some of the
19 mapping products that will be emerging. These are the
20 Yuba Sutter Floodplain maps that were submitted to FEMA
21 last year. The Department of Water Resources has
22 requested FEMA to issue formal maps that would then
23 trigger insurance and floodplain management and
24 development restrictions in accordance with NFIP rules.

25 FEMA has not yet acted on these formally or

1 completed the process, but that will be happening.

2 --o0o--

3 MR. MAYER: Another way to identify to the
4 landowners in the floodplain that they are at risk is to
5 simply put out educational maps. And this is a landowner
6 notification map. This is the type of map that was
7 discussed in legislation earlier this year, in AB 1665.
8 The idea being that someone, in the legislation proposed
9 to Department of Water Resources, would annually notify
10 all landowners that live in levee flood protection zones,
11 that they are indeed living in such a zone and provide
12 information regarding their risk.

13 This would be a map that would indicate the flood
14 depths -- the potential flood depths. And in addition,
15 there would be information about insurance availability
16 and how to obtain flood insurance.

17 --o0o--

18 MR. MAYER: Continuing on with the new paradigm;
19 personally, I tend to think we're seeing more interagency
20 cooperation in environmental issues, especially as money
21 is freed up. Money is a major consideration in terms of
22 how one navigates through the environmental permitting
23 process and provides mitigation for the environmental
24 impacts. And we're seeing a lot more cooperation in the
25 last year than we have seen in the earlier years.

1 Consequently, I think we will have significant
2 environmental investments, both in the mitigation that's
3 required, as well as taking advantage of opportunities to
4 enhance the environment as we build new projects that
5 incorporate not only flood protection features, but can
6 enhance the environment.

7 A key thing that is going to change, I think, is
8 that the system will no longer be designed to handle a
9 single-design flood but rather it will have multiple
10 classes of levees.

11 I think -- we all know this. It's headed towards
12 there are going to be urban levees that provide very high
13 levels of flood protection, hopefully. And there will be
14 nonurban levees. And there may be other types of levees
15 too, as we think it through.

16 I think the tendency will now be to form state
17 maintenance areas where the maintenance is deficient. Our
18 white paper said we need to do this, and then there have
19 been additional driving factors for that. In addition to
20 the concerns we had in the white paper and state liability
21 and the Paterno decision and the need to protect the
22 public, to make sure that maintenance is adequate, the
23 Corps engineers and FEMA have new policies that have come
24 out regarding maintenance deficiencies. And if
25 maintenance isn't adequate, the 100-year level flood

1 protection can be removed, and levees can be removed from
2 the PL84-99 Rehabilitation Program.

3 So if a flood -- once removed from the program, if
4 there were flood damage to occur, federal government would
5 not be there to aid, and it would be entirely upon the
6 state and locals to work out some arrangement to make the
7 repairs. And I'm afraid where that might end up. Either
8 way, it wouldn't be good.

9 I think it would be much better if the federal
10 government were to have the ability to repair the levees
11 after the flood. And therefore, it's incumbent upon us to
12 make sure the maintenance is adequate, and the levees stay
13 in the PL84-99 program.

14 As I mentioned, the state's been performing flood
15 fights, and I tend to think that will continue. I think
16 we're seeing more state leadership in repairing damaged
17 levees. Hopefully, that's a little bit of a one-time
18 thing as a result of lack of funding on the Corps side,
19 but not necessarily.

20 And I think that there are some levees that may
21 never be rehabilitated. Let me talk about that a little
22 bit.

23 --o0o--

24 MR. MAYER: I will get to that other map in a
25 minute. These are some maps that we prepared, showing

1 where we think urban levees are and where nonurban levees
2 are.

3 And in the legend, at the top, you can see that
4 where the levee would break and flood a population of
5 10,000 people or more, we would consider that an urban
6 levee, and those levees are designated in red. There are
7 approximately 300 miles of such levees in the system in
8 Sacramento and San Joaquin Valleys.

9 We have also broken it down to other increments of
10 population with the different colors.

11 This is not a final map. It's -- it's our first
12 cut at it. As we're working with local agencies, we're
13 getting input from them and refining where we think the
14 urban versus nonurban levees are. And it's the urban
15 levees that are our top priority in terms of beginning the
16 Levee Evaluation Program, that I will get to a little bit
17 later, under AB 142.

18 For the urban levees, of course, we want to see
19 high levels of flood protection. And there's a little
20 diagram that I think you have probably seen many times,
21 showing where Sacramento stands compared to other major
22 river cities.

23 --o0o--

24 MR. MAYER: Here's a map for the San Joaquin
25 system, and generally the urban levees are in the Stockton

1 and Lathrop area.

2 --o0o--

3 MR. MAYER: We have close-up maps that reflect the
4 same information that I just showed you on a larger scale.

5 --o0o--

6 MR. MAYER: I made the point that some levees may
7 not be rehabilitated as a result of flood damages. I
8 don't know if I can show it -- the cursor shows up; okay.

9 Over on this map, over here, this is a map showing
10 flood damages from -- for PL84-99. These are actual sites
11 where the Reclamation Board wrote a letter to the Corps,
12 saying, "This is a damaged site. Please repair it, under
13 PL84-99."

14 If it's a red site, that means it protects an area
15 with an urban population. If it's orange, it's an area
16 that is rural.

17 Now, in the case of Merritt Island, Reclamation
18 District 150, we find a lot of damage. It's not urban;
19 There isn't a lot of development in this area. And we
20 find a very low benefit-cost ratio for performing the
21 repairs.

22 In order for the Corps to do any repairs under
23 PL84-99, they must show that there's a benefit-cost ratio
24 greater than one. The benefit-cost ratio in this area is
25 about .2. So there's no -- going to be no federal role in

1 repair of the levees on Merritt Island, Reclamation
2 District 150, unless something dramatic changes with
3 respect to the economic analysis.

4 We have similar problems over in Reclamation
5 Districts 2060, 2068, and 2098, over in this area. But
6 the benefit-cost ratios are higher, that we think that
7 maybe with more refined economic analyses, we can get over
8 1.0.

9 So what do we do with Merritt Island, is the
10 question. The Corps does have an aspect of the PL84-99
11 program wherein if the benefit-cost ratio is less than
12 one, they can't participate except in a non-structural
13 project.

14 So if we were to partner with the Corps and
15 Merritt Island to do some type of a non-structural
16 project, such as elevating structures, relocating them out
17 of the floodplain, restoring the floodplain, that would
18 bring in federal money up to the benefits realized. And
19 we might be able to make something happen in that way.

20 That is a challenging question that we're going to
21 have to deal with, over the next year or two, because we
22 just cannot leave that unaddressed.

23 --o0o--

24 MR. MAYER: So what are some of the challenges
25 that we face?

1 Well, one of them will be, how do we handle the
2 cash flow without adequate federal funding? When I wrote
3 this, again, it was before the vote. I think the State
4 cash flow is looking pretty good at this point, for the
5 next ten years.

6 Local cash flow is the next question. I think you
7 may have seen where in the paper, this morning, where
8 SAFCA put out, yesterday, the idea of a new assessment for
9 rising \$290 million for improving levees and protecting
10 the Sacramento area, and for work at Folsom Dam. So we'll
11 have to see how the local agencies are able to do. So
12 we'll need to develop stable funding sources.

13 So how will we deal with the long run, the O&M
14 costs? How will we address those? Because even if we're
15 able to raise funds for the capital improvements, there's
16 still a long-term need for operations and maintenance.

17 And there's a lot of folks that think the
18 beneficiaries need to pay. It will be a real challenge to
19 secure federal credit and reimbursement. I think we can
20 in some cases; in many cases we won't be able to.

21 And we need to develop new rules for how we cost
22 share these new projects and new authorities.

23 The old paradigm is, the State, through the
24 Reclamation Board, and the Corps, partner to build
25 projects with local cost sharing.

1 The new paradigm kind of leaves the Corps out of
2 it in some cases. So the Water Code doesn't reflect that
3 new paradigm yet. And it doesn't reflect how we're going
4 to do the cost sharing, because the cost sharing formula
5 is set up for partnership with Corps of Engineers. We
6 need to deal with that if we're going to move forward in
7 implementing these projects that we would like to
8 implement, using the bond funds.

9 --o0o--

10 MR. MAYER: Continuing challenges.

11 We can't leave the small communities out of it.
12 We have many small communities scattered throughout the
13 Valley, and we need to deal with their protection. And
14 although we can probably map many of these areas
15 appropriately, we don't necessarily want to leave that map
16 forever. We wanted to come up with projects that deal
17 with these small communities, providing the protection
18 they need, and at the same time not necessarily promoting
19 expansive floodplain developments.

20 We're going to need to reconfigure the system
21 appropriately. So with that, we'll be dealing with the
22 Merritt Island issue plus the need to implement some of
23 the ideas that came out of the comprehensive study, but
24 take them to a much higher level, working through public
25 outreach effort, look at opportunities to build setback

1 levees, new bypasses, or large bypass capacity, as well as
2 protecting the urban areas, preserving the floodplains; I
3 guess fulfilling the promise that we made to build and
4 maintain levees to at least pass the historic design flows
5 for the rural areas.

6 And then in doing all that, the real problem that
7 we have been facing, yourselves, today and the last Board
8 meeting, how do we deal with hydraulic impacts? What are
9 hydraulic impacts? How do we measure them? How do we
10 account for them? How do we mitigate them?

11 --o0o--

12 MR. MAYER: That concludes the presentation that I
13 gave at the conference, which Butch asked that I go over
14 with you.

15 I can get into AB 142. But if there's any
16 questions, first, I would be glad to take them.

17 CHAIRPERSON CARTER: Are there any questions for
18 Mr. Mayer?

19 SECRETARY DOHERTY: I had one. I just missed your
20 ratio. You were talking about whether or not to
21 protect -- the benefit-cost ratio has to be what?

22 MR. MAYER: One.

23 SECRETARY DOHERTY: One.

24 CHAIRPERSON CARTER: One or greater.

25 Go ahead, Butch.

1 VICE PRESIDENT HODGKINS: Rod, that same test
2 doesn't apply for Sac Bank projects?

3 MR. MAYER: That's correct. Sac Bank has got a
4 unique federal authorization. It's kind of like a
5 maintenance program. We normally don't do benefit-cost
6 analyses on maintenance. And consequently, Sac Bank
7 doesn't have that requirement.

8 But when -- the Corps has looked at a benefit-cost
9 ratio for the program. And overall, it has a very large
10 benefit-cost ratio when you are trying to protect the
11 system. But they don't apply it site by site.

12 VICE PRESIDENT HODGKINS: Okay.

13 CHAIRPERSON CARTER: Rod, if I could just get a
14 process check: How much time do you expect AB 142?
15 Should we break for lunch now or do we --

16 MR. MAYER: That clock is no help.

17 VICE PRESIDENT HODGKINS: It's just a little after
18 noon.

19 MR. MAYER: I think I can be done with AB 142 in
20 ten minutes or less, unless you have lots of questions. I
21 really only have one or two slides.

22 CHAIRPERSON CARTER: Let's go ahead, then.

23 MR. MAYER: First of all, I will note that in
24 implementing AB 142, we needed some guidance because the
25 legislation that authorizes 142 is very broad. It's said

1 it's essentially for levee evaluations, related work, and
2 flood control system improvements. It didn't limit it to
3 the Central Valley, and it really didn't provide any more
4 guidance than that.

5 So the governor provided an executive order that
6 made it clear in terms of what are the authorized
7 activities and expenditures for these funds. And you can
8 see the list there, so I will spare you reading through
9 it --

10 --o0o--

11 MR. MAYER: -- and talk about the spending plan.

12 The first 300 million of the 500 million, we
13 think, will be spent on critical erosion repairs between
14 the 33 original sites, which are costing around the order
15 of 170 million; and the remaining 71 sites, which also are
16 on the order of 170 million. So you ask, well, 170, 170,
17 that's more than 300. It is possible we will go over 300.
18 I will say the estimates on the 71 sites are very
19 preliminary and crude at this point. And in some cases,
20 what we're going to be doing is actual temporary repairs
21 with the idea that the federal government will come in
22 next year and they will have money, and they will do the
23 permanent repairs. That's going to drive some of those
24 costs down.

25 So it's on the order of 300 million, that we're

1 looking at, for that effort.

2 So what's next? We're looking at the second broad
3 category of repair and construction of flood control
4 facilities. The first category, we're thinking about \$10
5 million should be allocated for planning and design of new
6 project facilities. This would be money that in general,
7 it would be the Reclamation Board, I would think, that
8 would be partnering with local agencies through
9 feasibility cost sharing agreements and design agreements
10 to look at how we might provide improved flood protection
11 in various areas. And we could probably all name
12 different areas that we think really need feasibility
13 studies. Some of them, we have talked about, and you will
14 see coming before you, are the Stockton area; they would
15 like a feasibility study, and this would provide funding
16 for that. The plan would be 50/50 cost sharing, state and
17 local.

18 Next is repair and construction of project
19 facilities, where we have identified that some specific
20 project facility needs attention and repair. We were
21 allocating funding for that. The intention would be,
22 follow historic cost-sharing formula.

23 We also are developing, for the first time ever, a
24 statewide grant program for emergency repairs on
25 non-project levees.

1 The plan would be to cost share 50/50, and we've
2 already identified three locations that qualify, and we
3 are negotiating, with them, designs for the work that is
4 intended to proceed during the next month.

5 And two of the sites, it appears that we are
6 actually going to enter into an agreement. The third
7 site, probably not. I will name those sites: The sites
8 are on Cache Creek at Huff's Corner; Yolo County is very
9 interested in doing an emergency setback levee project
10 using funding from this grant program; and then later on,
11 next summer, doing an actual bank protection project at
12 that same location.

13 In Santa Barbara County, there is a desire to
14 build some temporary measures including rock and pipe and
15 chain link fencing to control erosion on the Santa Maria
16 River. And the fencing would slow down velocities near
17 the levee and actually cause sand to build up and deposit
18 on the road, along the levee. They are very interested in
19 doing some emergency work, in the very near future, with
20 funding from this.

21 The third location that was identified as a
22 critical site, and these were from Ayers Investigations,
23 would be the J Levee up at Hamilton City.

24 And an offer was made to a local agency up there,
25 at Glenn County. It doesn't look like they are going to

1 take us up on that offer to do emergency work. And it's
2 millions of dollars at work for what's needed, and they
3 are having trouble finding funding in short order to do
4 this.

5 Next category: flood control improvements,
6 including sediment removal, leveling, and floodplain
7 evaluations. We set aside \$10 million. Some of it is for
8 completing the Fremont Weir project, which was more
9 expensive than we expected, due to rising construction
10 costs and fuel costs. And the bulk of this money, though,
11 is funding for Tisdale Bypass Sediment Removal Project.

12 Improved emergency response; we made a purchase of
13 nearly a million dollars worth of flood fight materials
14 with this funding. And we have plans for developing
15 emergency response evacuation maps, and other things,
16 funding local agencies where there are critical locations
17 that may not be repaired.

18 There's also the intention to look at improved
19 reservoir operations, to improve our emergency response
20 capabilities.

21 Next big one, levee evaluations for urban areas;
22 we now have a \$35 million contract in place with URS to
23 begin levee drilling and engineering evaluations for
24 approximately 300 miles of urban levees.

25 Of course with Prop 1E and Prop 84 funds, we

1 intend to expand that throughout the system.

2 We are setting aside \$35 million for floodplain
3 mapping studies. And we envision approximately a half
4 dozen contracts that we're going to develop, for which we
5 would contract out development of the hydrology and the
6 hydraulics and specific regional floodplain mapping
7 studies.

8 We're also setting aside \$15 million for expedited
9 levee repairs and upgrades for urban areas. That isn't
10 nearly going to meet the need, but we do think that it's
11 an appropriate expenditure. And we're also setting aside
12 \$20 million to enhance the delta levee subventions and
13 special projects program, totaling \$500 million. That's
14 the spending plan.

15 And I believe that's the end of my presentation.

16 Are there any questions?

17 VICE PRESIDENT HODGKINS: Rod, as you look through
18 the broad bullets on the list, are there specific projects
19 that are already being discussed for the various
20 classifications, the system and expedited levee repairs?

21 MR. MAYER: There are. For instance, we've
22 already funded \$2.1 million for the American River Common
23 Features Project out of this, for the geotechnical work.

24 We reached nine -- I forget the other reach
25 number, in the Pocket area, building those slurry walls.

1 That money was used to supplement what we already had in
2 capital outlay, which had been expended.

3 We're using the money for the Prichard Lake
4 pumping plant repair.

5 And there are not, other than those two, at this
6 point, any specifically allocated ones for the -- for the
7 two categories here: repair construction and project
8 facilities at the 20 million; or for the expedited levee
9 repairs and upgrades for the urban areas for 15 million.

10 VICE PRESIDENT HODGKINS: Are the individual
11 projects that say, come out, sort of top down from DWR, or
12 are you waiting for local interest to come to you and say,
13 "Hey, we need your help"?

14 MR. MAYER: It's actually kind of a mix.
15 Certainly, as we -- as we identify something that makes
16 sense to us, we're moving on it. And so that's what
17 happened in these two cases. Although -- well, I would
18 say in the Prichard Lake case, the locals came to us
19 saying, "We need help." And we said, "We'll help you."

20 In the case of Prichard Lake, that contract is for
21 \$6 million.

22 Locals have come to us and submitted some -- some
23 lists of what they would like to find. What we haven't
24 developed is an actual process of how to sort through
25 that, and we need to do that.

1 We are developing guidelines, though. And maybe I
2 should have pointed out in the previous slide, the
3 executive order says "develop guidelines." They developed
4 guidelines for implementation of the AB 142 funds. You
5 don't have to implement regulations, in other words. So
6 we have draft guidelines now, through which there is a
7 process that will be developed to solicit and identify the
8 projects that would be funded.

9 The draft guidelines are not ready for public
10 dissemination, but they will be before long.

11 VICE PRESIDENT HODGKINS: Thank you.

12 BOARD MEMBER BURROUGHS: Thank you for a very nice
13 presentation. Appreciated the information immensely.

14 This probably isn't a fair question, but I just
15 wanted to ask it, if you could answer it: But of the
16 500 million, could you give us a percent of what would be
17 spent on mitigation for these projects? And what percent
18 would be spent for studies? And what percent actually
19 goes to construction?

20 MR. MAYER: I don't know if it's a fair question
21 or not, but it's certainly one that I don't have the
22 answers to. And I won't for any time -- any time soon
23 because there's going to be a competitive process in which
24 applications for projects are reviewed and screened and
25 then grants awarded.

1 BOARD MEMBER BURROUGHS: How about -- how about in
2 the past? In general, is there a general formula for --
3 we've talked about some projects taking as much as 20
4 years to complete. And in that 20 years, I'm sure a lot
5 of that money is going to studies. And actually, when it
6 gets down to construction, I was wondering if there's any
7 kind of formula.

8 MR. MAYER: There are general rules of thumb, I
9 would be glad to share with you.

10 BOARD MEMBER BURROUGHS: Okay.

11 MR. MAYER: But each project is different.

12 BOARD MEMBER BURROUGHS: Sure.

13 MR. MAYER: And the size of the project
14 dramatically impacts this.

15 But typically in my experience, and what we talk
16 about, is planning and design amounting to something on
17 the order of 25, 30 percent of the project, sometimes
18 more. If it's a small project, you could spend more than
19 that on it. If it's a multi-hundred-million project, you
20 would probably spend less than that per portion. So
21 that's one rule of thumb.

22 With respect to the -- I think you asked me about
23 environmental costs.

24 BOARD MEMBER BURROUGHS: And mitigation costs.

25 MR. MAYER: And mitigation costs?

1 I don't have a rule of thumb for that. I could
2 say, except for bank protection, which probably is the
3 type of work that has the highest mitigation costs of all,
4 just about everything else will be less. And for that
5 bank protection work, the direct mitigation environmental
6 costs, that we have able to track, end up being about a
7 third of the costs.

8 BOARD MEMBER BURROUGHS: Thank you.

9 MR. MAYER: And there are certainly other costs in
10 terms of the planning that one could allocate to that, but
11 they are hard to quantify and break out. So it's probably
12 higher than that, if you were to really analyze it.

13 BOARD MEMBER BURROUGHS: Thank you.

14 VICE PRESIDENT HODGKINS: What was the number? I
15 couldn't hear.

16 MR. MAYER: Oh, about one third.

17 VICE PRESIDENT HODGKINS: Okay.

18 MR. MAYER: That was based upon looking at six
19 sites that were done over the past five or six years.

20 I think we will have much better cost information
21 for that, as a result of the 33 sites that we're doing
22 now. I think we'll have results for that. And then later
23 on, 71 additional.

24 BOARD MEMBER BURROUGHS: One last question. For
25 next month --

1 CHAIRPERSON CARTER: Briefly.

2 BOARD MEMBER BURROUGHS: For next month, if you
3 could maybe discuss with us a little bit more, your
4 thoughts on land use and liability.

5 Thank you.

6 MR. MAYER: I will try. I don't know if I can go
7 much farther than what you heard today, though, without
8 getting in trouble.

9 BOARD MEMBER BURROUGHS: Okay. Thanks.

10 CHAIRPERSON CARTER: Very good. Thank you very
11 much, Mr. Mayer.

12 MR. MAYER: You're welcome.

13 CHAIRPERSON CARTER: At this point we will adjourn
14 for lunch.

15 We will reconvene here at 1:45, a quarter to 2:00.

16 All right? Thank you.

17 (A lunch recess was taken in proceedings.)

18 CHAIRPERSON CARTER: Good afternoon, ladies and
19 gentlemen.

20 If we could bring the Rec Board meeting to order.

21 We -- I hope everybody had a wonderful lunch.

22 We are now on Item 15, Preparations for the
23 Upcoming Flood Season.

24 Mr. Bardini?

25 MR. BARDINI: Gary Bardini, chief, Hydrology and

1 Flood Operations for the Department of Water Resources.

2 Thank very much, President Carter.

3 I have an opportunity to give you an update for
4 our emergency preparedness for this season.

5 Today, what we brought are several key managers in
6 our organization here to provide you a brief update. One
7 highlight is Dave Paulson, who is now trying to fill the
8 big shoes that were vacated by our previous flood
9 operations chief, who has graciously accepted an offer to
10 work elsewhere --

11 (Laughter.)

12 MR. BARDINI: And it's been a big loss.

13 But anyway, Dave Paulson has replaced Jay Punia,
14 and is going to try to fill those big shoes that Dave
15 has -- or that Jay has had for several -- several years
16 with our department. And so we are in the midst of
17 transition there.

18 So Dave will provide you an update. And then --
19 then we have Jeremy Arrich, who's the acting branch chief
20 for the Flood Inspections Program, to give you an update
21 on the inspection site. And then Keith Swanson with DWR
22 Maintenance to give you an update.

23 But I would like to maybe give you some kind of
24 overview of where we're at relative to the emergency
25 preparedness and what we're looking at for the season.

1 What we have right now, just from a weather
2 outlook perspective, is you have probably seen a lot of
3 press. But we are looking to have a moderate El Niño.
4 And what does a moderate El Niño mean in terms of
5 potential for storm activity here in California? And what
6 you usually see is that when you have a weak El Niño,
7 there's not necessarily -- in the case of northern
8 California, isn't really a significant indicator for are
9 you going to have a wetter or drier season.

10 But when you start moving to a moderate into a
11 strong El Niño round of moderate, then you're likely to
12 have additional rainfall here in California, particularly
13 in Southern California. But here in northern California,
14 we can look probably to have, as an average water year,
15 we'll probably be looking at probably having more rainfall
16 than normal. That's if you look at the historical, you
17 know, benchmarking against the previous years.

18 The -- it doesn't necessarily mean that it becomes
19 the big storms. The big storms don't usually happen in
20 terms of high intensity storms over one-day, three-day
21 period. We usually see those in the La Niña period.

22 So if you look at history -- we're probably not up
23 to the big ones, but we're probably likely to have a lot
24 of water and rainfall extended through probably certainly
25 in Southern California, but more likely to see it in the

1 Central Valley also.

2 With that being said, it's -- we have concerns
3 probably more so right now; there's been a significant
4 amount of burn areas down in the Southern California area.
5 And so from a DWR emergency preparedness perspective, we
6 do have concerns that we could be asked to try to assist
7 those Southern counties in the event that this El Nino
8 rainfall does materialize, particular in Southern
9 California, with those significant burn areas. And one
10 area that we're particularly concerned about is Ventura
11 County, Sespe Creek Area. We'll be watching that very
12 carefully, and, of course, San Bernardino.

13 Talk about looking at last year. Last year, as we
14 all know, was a very wet -- it was the fifth wettest water
15 year on record. It was kind of analogous to, like, an
16 '83, which was the biggest water year on record, and a
17 heavy snowpack runoff. And we had late season storms from
18 April and May, and that really taxed us, from an
19 operational perspective, on the San Joaquin and Tulare
20 Lake Basin Area.

21 In January, we certainly had a rainfall period
22 there. It particularly hit the Napa/Russian area, caused
23 some widespread flooding there. Boasted some pretty good
24 significant rainfall in the Sacramento Basin which really
25 created, you know, the operation of the Sacramento Weir,

1 which was the first time that had occurred since '98. And
2 we operated 20 of the gates, about half the capacity of
3 that system.

4 We had -- I think the thing to note, though, from
5 California system and San Joaquin system is that we had a
6 lot of water throughout a good amount of the winter period
7 and spring. And so what we found is, when the water
8 started drying out, there was a significant amount of
9 repairs that were needed on repeal of AB 499.

10 As far as the events themselves, I think, Rod
11 Mayer had shown you in the previous presentation, that
12 there was a significant amount of actions taken during
13 this period by the Department that required a number of --
14 of advance measures and flood fights that were taken on,
15 to try to hold the system together. And as Rod described,
16 it was about a one-in-ten year-type of events, on average,
17 even though it was a different system, had a little bit
18 more or less.

19 But in general, it wasn't the big event. It
20 wasn't the '97; it wasn't the '86 flood. But a lot of
21 folks use it as a benchmark to what's a big high water
22 event. But nevertheless, it had a considerable amount of
23 effort on the Department to address that. And to say that
24 from a Department perspective, as we were staffed last
25 year, that it really taxed our full abilities as a

1 department, just to address what was already happening.

2 Certainly, to just review where we're at now, is
3 we had been on track for several years. We are actually
4 stepping up our efforts in terms of staffing resources and
5 training to carry our emergency response responsibilities
6 out. You're going to see considerable buildup in that,
7 over the next few years. Certainly, the passage of
8 Proposition 1E certainly helps that effort in terms of
9 emergency response, let us know what you will see in terms
10 of system improvements that I'm sure we've all had
11 discussions about, as they've come to the Board over a
12 number of years.

13 So I think the last thing I would like to close,
14 in terms of emergency preparedness, as I turn this over to
15 Dave Paulson, is last year represented a difference in
16 terms of what I would say is the State's response to flood
17 fighting and emergency preparedness.

18 What you saw in previous years, before last year,
19 is that the state would quickly try to work with the Corps
20 of Engineers to step in and to carry out advance measures
21 or flood fights and utilize them and try to tap federal
22 resources.

23 But again, with the -- with the Paterno liability
24 coupled with the Katrinas and other, you know, I would say
25 awareness by the public of the concerns of the need of

1 flood control -- it's what we all do here -- is that there
2 was an effort by the Department and the State, as a whole,
3 to take advance measures and to aggressively address any
4 stress in the system.

5 And so I would say to the Rec Board that you will
6 see those same measures likely. And we've been talking to
7 local agencies that we will be there again this year to
8 carry those out, to ensure the safety of the public.

9 With that, I would like to go ahead and turn it
10 over to Dave Paulson.

11 MR. PAULSON: Good afternoon, President Carter,
12 Rec Board Members, and staff. I'm pleased to be here.

13 I've just recently started. As Gary mentioned, my
14 position is the Flood Operations Branch Chief. I am
15 trying to do my best to fill in for Jay Punia's old
16 position. I'm excited about the upcoming events. And
17 what I'm trying to do today will be to at least provide
18 some information to you regarding DWR's actions to date,
19 in preparation for the upcoming flood season.

20 I have distributed, through staff, a handout that
21 is in front of you. And it's titled "DWR Preparation for
22 the Upcoming Flood Season." And I will be speaking from
23 that today.

24 First off, at least within the last month, we have
25 focused on a number of different preseason flood

1 coordination meetings. The Department itself has
2 sponsored six specific different coordination meetings,
3 where we have gone out with the local state and other
4 federal agencies, communicating with these agencies, and
5 defining roles and responsibilities with these.

6 They have been at various locations throughout the
7 state of California, including Sacramento, here. We did
8 have one meeting with the Army Corps of Engineers. We
9 also met in Yuba City, Stockton, Sacramento, and we had
10 two meetings down in Southern California: San Bernardino
11 and Ventura County, really in regards to the potential
12 flooding resulting from the day fire that Gary had
13 mentioned earlier.

14 In addition to these meetings, we held 18 county
15 OES meetings where we primarily met during the months of
16 July and August, on a one-on-one basis with the County OES
17 personnel. This was an opportunity for us to work
18 directly with the County OES and at least update them with
19 where we are, in our preparation for the upcoming season.

20 We also participated in three OES mutual aid
21 regional advisory committees. These are sponsored by OES,
22 and they are held quarterly, particularly in the fall.
23 This one's focused on flood preparation, so we did
24 participate in those.

25 We also participated in two more technical

1 meetings: one, the Yuba-Feather Annual Operations
2 Coordination Meeting; and the second, the
3 California-Nevada River Forecast Center Workshop. These
4 were primarily to discuss reservoir operations and
5 releases.

6 In addition to these coordination meetings, we
7 have continued on our training for flood fight
8 preparation. We do have a flood fight specialist, Rick
9 Burnett, within the Department of Water Resources, who is
10 the primary conductor of these flood fight classes. They
11 are offered to local agencies, DWR staff, and other
12 reclamation districts in preparation for the upcoming
13 season.

14 There has been, to date, and are scheduled through
15 the end of December, over 20 of these classes, with a
16 total personnel trained of 600-plus. Within those 600
17 personnel, the two classes that were held within the
18 Department of Water Resources trained an additional 90
19 folks.

20 We also are preparing for the upcoming flood
21 season with stockpiles of the flood fight material. As
22 Gary mentioned, last year was a very busy year for the
23 Department and some of our stockpiles were depleted. We
24 have used General Fund monies and some funding from AB 142
25 to regenerate some of those stockpiles. We're actually in

1 a very good position right now. We are double where we
2 are on a normal year as far as the total quantity of those
3 stockpiles.

4 We have, and are in the process of, predeploying
5 these materials out to seven strategic locations
6 throughout northern California, so they are available in
7 the event of a high water incident.

8 We also are in the process of preparing two
9 communication trailers which will greatly enhance our
10 communications, especially within the delta, where we have
11 been faced with communication difficulties.

12 We also have tasked the individual reclamation
13 districts with increasing their own stockpiles. It's a
14 requirement under the General Flood Readiness, one of the
15 flood inspection categories that we have. So we have
16 encouraged them to also increase their stockpiles.

17 We also have continued our -- our training within
18 the Standardized Emergency Management System, SEMS. In
19 addition to that, we have initiated the training under
20 NIMS, which is the National Incident Management System,
21 training. It's something that came out of Katrina. It's
22 the federal requirements that we are now adhering to and
23 we are currently being trained on. Under the SEMS
24 program, there are over 400 staff that were trained under
25 the SEMS umbrella.

1 Also, one of the key components for this upcoming
2 year is the development of our Incident Command Teams.
3 These are the personnel that are out on the -- on the
4 ground levels that are immediately called into action.
5 When a high incident -- or high flow incident does occur,
6 people are requested from the Department for either direct
7 assistance or some technical assistance.

8 We are preparing and recruiting for the staffing
9 of the these three Incident Command Teams in addition to
10 the flood operations center which also operates as a --
11 under the ICS system.

12 The three ICT teams have three geographic
13 locations, one being in the delta itself; the second one
14 being within the San Joaquin system; and the third,
15 primarily within the Sacramento system. They are not held
16 to that one position. But again, they are strategically
17 located and they can be mobilized and used in combination.

18 We have recently, this past week, sent out a
19 recruiting notice to various divisions within our
20 Department, trying to supplement and, in preparation,
21 identifying key personnel that will be important to these
22 ICT teams themselves.

23 We have scheduled a preseason meeting with the
24 incident commanders of each one of these three teams, in
25 addition with the Flood Operations Center Management, so

1 that we can have a good understanding of what each
2 individual's area of responsibility is, in addition to
3 what the flood operations center's responsibilities will
4 be.

5 We also have been working on streamlining the
6 request for federal assistance; it's primarily with the
7 Corps. We have developed, and are in the process of
8 developing, some standardized language and some request
9 forms. This way, we are able to meet the Army Corps of
10 Engineers, their requirements. We're able to -- they are
11 in turn able to process these requests in a timely fashion
12 and are able to respond in those instances, when needed.

13 In addition, an MOU, a Memorandum of
14 Understanding, and the standard operating procedures are
15 already in place between the DWR and the Army Corps of
16 Engineers for direct assistance under PL84-99 emergency.

17 And finally, within the flood operation center
18 itself, we have made some improvements over the last year.
19 We have just recently installed a new phone system. And
20 even though our phone numbers weren't changed, our ability
21 to handle additional calls, simultaneously, has greatly
22 improved, which will be a good service to the people that
23 are calling in.

24 Also, we were in the process of improving our
25 weather briefing access. And we are looking at providing

1 that on -- on an Internet site, on the World Wide Web.
2 We're in conjunction with another agency, trying to at
3 least provide that, such that -- our flood operation
4 center, it's quite small, and we often are cramped with a
5 number of people that are interested in it. This will
6 allow remote access to these weather briefings and will
7 act as a good public outreach to all of the agencies that
8 are interested and concerned.

9 Just a couple notes here that I have addressed.
10 CDEC Internet access, we do have a secondary site for
11 agencies outside of the normal public access. The public
12 access does get overwhelmed during high water events, so
13 we do provide one for agencies.

14 What you need to do -- it's a -- it's a secondary
15 Web site there. What you need to do is call, and there's
16 a number identified there for any of the agencies that
17 would like to. It's specific to an IP address. You
18 provide that IP address, and you will have access for that
19 in a time of need.

20 Secondly, the -- we have just restated our phone
21 number, so they have not changed. We have an 800 number,
22 and we have a local number identified there as well.

23 Also, distributed to you today is two bits of
24 information. Actually, I have here that we're actually
25 going to distribute the emergency contact cards, the

1 yellow cards that are in front of you, in addition to
2 the -- directly to the flood officials. We are in the
3 process of distributing those, and those likely won't go
4 out until after Thanksgiving. And part of the reason for
5 that is, we've had some difficulties within our own
6 reproduction here, within the Department. However, we
7 were just made available an advance set. And I would
8 like -- I wanted to provide those to you today. So those
9 are available, and we will go through our mass
10 distribution, probably the week following Thanksgiving,
11 assuming that our printers can have all their parts they
12 need to continue on this process.

13 Finally, the flood operations center, the staffing
14 changes, again, myself, Dave Paulson -- that's probably
15 the biggest change -- I started nine -- this is ninth day,
16 so I'm still very new and fresh.

17 And in addition to that, we've increased our IT
18 capability. We've added staff. We brought some personnel
19 over from CDEC, and we also are in the process of hiring
20 some additional staff to help support the flood operations
21 center.

22 And that is my report. Unless you have questions, I
23 will --

24 SECRETARY DOHERTY: I do have a question.

25 You have some telephone numbers, and they don't

1 have a prefix like 916 or 415. So are those all 916?

2 MR. PAULSON: Those are all 916, the ones without
3 the prefix, correct. And we will make a note of that for
4 a future releases of that.

5 Thank you.

6 And I will invite Jeremy Arrich up to talk about
7 the levee inspections.

8 MR. ARRICH: Good afternoon, President Carter and
9 members of the Board -- Rec Board staff.

10 My name is Jeremy Arrich. I am the acting branch
11 chief for the Flood Project Integrity and Inspection
12 Branch under Flood Management.

13 I'm going to touch on three things today, the
14 first being the status of our fall inspections and kind of
15 an overall assessment of our levee conditions;

16 The second being some new policy guidance that the
17 Corps has recently released.

18 And finally, touch on our inspection program in
19 general.

20 Status of the fall inspections, they are currently
21 in process. Our inspectors are roughly 75 percent
22 complete with their fall inspections. And primarily, they
23 are out there to verify whether or not the deficiencies
24 identified in the previous spring inspections were
25 adequately -- adequate maintenance was performed on those

1 deficiencies, and any new deficiencies that may have
2 occurred will also be identified.

3 We -- we also recently conducted -- I believe the
4 first-ever San Joaquin erosion survey by boat. Our staff
5 and our branch went out, engineers and inspectors, and we
6 surveyed all the navigable portions of the San Joaquin
7 Basin, where you can actually see the levees. So I think
8 it was roughly 65 miles out of 3 or 4 hundred miles. So a
9 small portion, but still important, because it's tough for
10 the inspectors sometimes to see the erosion that's lower
11 down on the levee slopes.

12 We will be preparing an annual report which will
13 come out within the next couple months, and the results of
14 the erosion surveys will also be in that report.

15 In terms of the -- the assessment of our levee
16 conditions, in general, there's no real formula for saying
17 how well the levees are. There's a lot of erosion, as
18 everybody's well aware of, a lot of critical erosion
19 sites. A lot of them are being repaired, have been
20 repaired, or are being repaired this winter. However,
21 there are still a lot of erosion sites that are not being
22 addressed this year; they are being deferred till next
23 year or the following years.

24 And in preparation for the upcoming flood season,
25 we're asking all the reclamation districts that have these

1 erosion sites to stake their erosion sites and monitor
2 them aggressively throughout the winter, as soon as the
3 water starts coming up against the erosion, we want them
4 to be monitoring that and reporting back to us if there's
5 any problems in terms of active erosion or losing the
6 stakes. So we're sending a letter to the districts to ask
7 them to do that.

8 The second thing I wanted to touch on briefly was
9 the new U.S. Army Corps of Engineers Policy Guidance. Its
10 Procedure Memo 43, and I believe the date on that was
11 September 25. Essentially, the Corps has increased its
12 inspection standards on a national level, so they have
13 made the inspections requirements and rating systems more
14 stringent. So they are going to accept much less
15 maintenance deficiencies than they have been accepting in
16 the past. Districts will be rated much more strictly in
17 terms of what constitutes an overall rating of
18 unsatisfactory or marginally satisfactory.

19 SECRETARY DOHERTY: So what happens if they are
20 rated unsatisfactory? What do you do?

21 MR. ARRICH: And the implications of that are that
22 they -- first of all, the implicates are that they are
23 going to lose eligibility in the PL84-99 Rehabilitation
24 and Assistance Program.

25 So currently, if they are eligible to get

1 assistance after a high water event from the Corps, they
2 will -- if they were rated as unsatisfactory, they will no
3 longer be eligible for that -- that assistance. And then
4 they will have to take measures to get back on that
5 eligibility list, but that will be a difficult process for
6 them to go through.

7 In terms of what the Department does, is we
8 obviously report in our special reports to the local
9 maintaining agencies that -- that they have these
10 deficiencies and their operation and maintenance
11 requirements are to fix those deficiencies.

12 If they don't fix them, we continue to report that
13 they are not being fixed, and we have that history to
14 show.

15 But we are working aggressively with the Corps on
16 this -- this new guidance. It's a really big issue. And
17 we have been meeting with them. And Jay has been in the
18 meetings, as well, every two weeks. So I think you will
19 be hearing future updates on the status of that -- that
20 memo and its implications on the reclamation districts and
21 the state.

22 The third thing I wanted to talk about was our
23 inspection program. As you may know, our inspection
24 program has been kind of in a state of flux over the last
25 year, year and a half. And most recently, which was

1 earlier this year, we changed the inspection program to --
2 to request the districts do two inspections a year and DWR
3 does two inspections a year. And that meets the federal
4 regulations of -- of basically four inspections a year,
5 not exceeding 90-day intervals.

6 We're currently working to redefine that program.
7 We think that we have a good solution that will help us
8 get the four inspections done each year. And again, you
9 can expect future updates on -- we're going to work with
10 Rec Board closely to define that program and get
11 acceptance in terms of federal regulations and meeting
12 these requirements.

13 Our goals are to comply with the federal
14 regulations. We would like to get consistent response
15 from the RDs in terms of them doing their own
16 self-inspections. We would like to produce consistent
17 inspection evaluations, because our inspectors do it the
18 way they've done it for 20 years. And we ask the
19 districts to do it, they are not as trained. So we are
20 going to be tailoring it to their experience and
21 expertise. We would like to get meaningful results out of
22 these four inspections. It's not the same when you
23 inspect in the spring and fall versus the summer and
24 winter. So we're tailoring it to meet the needs of the
25 different seasons. And of course we're going to concur

1 with the Rec Board requirements and the Corps of Engineer
2 requirements in the new guidance that they are putting out
3 there.

4 We're pretty much forced to comply with what the
5 Corps requirements are, if we want the districts to
6 maintain PL84-99 eligibility.

7 That's all I have for today unless you have any
8 questions.

9 CHAIRPERSON CARTER: With the Corps' new
10 inspection standards, which are more stringent, which Mr.
11 Mayer mentioned earlier today, that you're kind of
12 restructuring the inspection program based on feedback
13 from the -- from the reclamation districts and the
14 burdensome reporting that has been required.

15 The -- I guess you're going to be reducing the
16 amount of reporting that the local maintaining agencies
17 have to do with inspections, but still meeting the more
18 stringent standards, inspection standards, for the Corps?

19 MR. ARRICH: Correct. We're -- the federal
20 regulations don't specify what the reporting requirements
21 are. It just states that we need to do four inspections a
22 year. The Corps requires us to submit, to them,
23 inspections twice a year, and we do that with our spring
24 and fall inspections. They are very detailed reports of
25 every aspect of the flood control system. We're trying to

1 make it easier for the districts to report to us and make
2 it meaningful at the same time.

3 CHAIRPERSON CARTER: Okay. Any more questions for
4 Mr. Arrich?

5 VICE PRESIDENT HODGKINS: Jeremy, clear up my lack
6 of memory.

7 In the past, did we really only do two inspections
8 a year, or did we do four?

9 MR. ARRICH: That question has been raised before,
10 and you might hear inconsistent answers to that.

11 I think depending on which district and the timing
12 of it, someone may argue that it was four per year. But
13 it was two inspections per year. The inspection was
14 followed up by a joint inspection where our inspectors
15 took the districts out there to the problem areas and
16 showed them where their deficiencies occurred. And
17 that -- in some minds, that may have been considered a
18 second inspection.

19 In others, we've done channel inspections in the
20 summer and structures inspections in the summer. Some
21 people argue that those were two additional inspections.
22 But the regulations state that you have to inspect all the
23 flood control works four times a year. So that includes
24 the structures for the channels, the levees, and other
25 items.

1 VICE PRESIDENT HODGKINS: Okay. Thank you.

2 MR. ARRICH: You're welcome.

3 CHAIRPERSON CARTER: Any other questions?

4 SECRETARY DOHERTY: Would it be possible to train
5 somebody from a district, like they have the flood fight
6 instruction -- and that's different I learned today from
7 the inspection? Would it be possible to train people from
8 a district what to look for?

9 MR. ARRICH: Yeah. In fact, part of our new
10 program is -- when we do our spring and fall inspections,
11 we're going to require that the district's main
12 representative, whether it's their superintendent or their
13 main inspector, accompany our inspectors throughout that
14 entire inspection. So it increases the chances that they
15 are going to find deficiencies, because you've got two
16 sets of eyes looking at each side of the levee, and it
17 also trains them as that what we're looking for. They are
18 not required to report on it; they just ride along, and
19 they are trained, and they are seeing what the problems
20 are, all on the same inspection.

21 SECRETARY DOHERTY: So it might get better as time
22 goes by?

23 MR. ARRICH: I believe so. I believe this is a --
24 you know, if we have a chance this is -- this is the way
25 to do it.

1 SECRETARY DOHERTY: All right. Thank you.

2 BOARD MEMBER BURROUGHS: What about some of the
3 districts that don't have the personnel and maybe have a
4 large area of miles to cover?

5 MR. ARRICH: I mean, every district should have a
6 superintendent, and at the very least, they should have a
7 couple of members of their district. And it's really
8 not -- they are out there driving their levees, anyways,
9 normally, as part of maintenance or routine inspections;
10 it's part of their operation and maintenance requirements
11 is doing inspections. They just haven't been asked to
12 report on it in the past.

13 So I really don't think it's a lot to ask for them
14 to ride along with us. Some districts, maybe it will take
15 a couple of hours versus a couple days. But the ones that
16 take a couple days, I'm pretty sure we have good
17 cooperation, like Lower San Joaquin Levee District with
18 Reggie Hill, down there.

19 SECRETARY DOHERTY: Okay.

20 CHAIRPERSON CARTER: Thank you.

21 MR. ARRICH: Thanks.

22 MR. SWANSON: Good afternoon. I'm Keith Swanson,
23 chief of the Flood Maintenance Office.

24 In the past years, I've used this particular time
25 of the year to build public awareness of the challenges

1 that we face in flood control maintenance. But I'm really
2 happy to say that this year I get to talk about some of
3 the achievements that we have and that we can celebrate.

4 For instance, regarding the office personnel -- or
5 in my maintenance office, I've gone from 53 people to 78
6 people, an increase of 25 individuals in the past 18
7 months. We have three and three quarters million dollars'
8 worth of new equipment an order. We were driving, you
9 know, emergency room response vehicles with 160, 170
10 thousand miles. We're starting to get new equipment in,
11 replacing that out, and we're getting new specialized
12 equipment in that will increase our production in the
13 future.

14 We dealt with the January and April high water
15 events, and some of our new people got some invaluable
16 training. We're going to be going through preseason
17 training just after Thanksgiving. And so we're looking at
18 a little bit more training that we will have complete,
19 prior to any high water events.

20 And I'm happy to say that I think portions of the
21 system that are maintained by the Department are in the
22 best shape that they have been in since I've been in this
23 position, so in the past six years.

24 Now, when I talk about, you know, what the
25 Department is responsible for, it's 324 miles of levees,

1 all the channels of Sacramento River Flood Control
2 Projects, all the rivers and canals and creeks that are
3 associated with that; eleven weirs; five gate structures;
4 and four pumping plants.

5 Now, this time of year we're really winding down
6 after quite a busy maintenance season. We feel like our
7 324 miles of levees are pretty well maintained, you know,
8 meeting Corps standards. We'll see with the new
9 inspection standards, how we actually fair up. But
10 we're -- we're fairly confident that we're in fairly good
11 shape.

12 This year we repaired six miles of wave damage
13 that we experienced during the January and April flood
14 events. We repaired 29 minor erosion sites on May 9; and
15 another bigger erosion site on Butte Creek; we repaired
16 six slipouts along the levees of the Sacramento Bypass,
17 and some of these were fairly substantial where we tore
18 out most of the Sac Bypass Levee and completely rebuilt
19 it. So I think we've licked some problems and we won't
20 have to go back in the future.

21 We also repaired a slipout on the west levee of
22 the Yolo bypass; our crown roadways, we're in the process
23 of spraying our pre-emergents now. And that's 320 miles
24 of levees that we -- or, crown roads that we have worked
25 on, and another 282 miles of tow roads that we sprayed and

1 keep the vegetation out of. We have an aggressive rodent
2 abatement program. We really kicked that up this past
3 year, because we see that damage that the rodents are
4 doing. I think we're getting a better understanding of
5 what we need to do to keep rodents under control. It's a
6 never-ending battle.

7 Where we have a grouting program to deal with
8 rodent holes in the Sac yard, we've grouted about 3,000
9 holes. But what we are seeing is the grout takes are
10 going down as we are aggressively controlling the
11 populations. We think that, you know, this grouting
12 program is the way to go, and we're building a second
13 grout rig. At Sutter Yard, by next spring, we should have
14 a second rig available.

15 Then you heard about the critical erosion repairs
16 on Department-maintained levees. There was about ten
17 sites that have been addressed.

18 This past year, we did the most -- the highest
19 acreage of channel maintenance that we've done, since I
20 have been in this position; we did 2,550 acres. And
21 there's a list in the handout of what channels we worked
22 on and the type of work that we did.

23 We did a lot of debris removal after the high
24 water events, and we had to collect the debris, stack it,
25 burn it. We were in most of our channels, doing debris

1 removal work.

2 We had a sediment removal project at Fremont Weir
3 that we just wrapped up. We moved about a million cubic
4 yards of material there.

5 We are aggressively working on the plans and
6 permits to remove sediment in Tisdale Bypass. We're quite
7 confident that we'll be working out in the -- in Tisdale
8 Bypass next summer. We're also looking to remove
9 sediment, about 50,000 cubic yards of material, from
10 Sycamore Creek at Cohasset Road Bridge next summer.

11 Bridge replacements, currently we've been working
12 with Sutter County. O'Banion Bridge is under
13 construction; they got shut down for garter snake issues.
14 But they'll finish that up in the spring.

15 And we think that Garmire Road Bridge is on track
16 to go to construction in the spring of next year. There
17 will be a two-year construction contract. It's going to
18 have major impacts on flows entering Tisdale Bypass
19 because right now all debris, it builds up against the
20 existing bridge. That will be a major improvement.

21 We've done a lot of facility repairs. We've got
22 half the pumps out at our Sutter pumping plant being
23 refurbished; the pumps and the motors. We expect that
24 those will be reinstalled within the next couple of weeks,
25 before flood season. And then we're probably going to

1 take a pump out at each plant and get those -- pump and
2 motor at each plant, get those refurbished, and then
3 follow it up with the final couple of pumps after that.
4 So by maybe the end of the -- end of the fiscal year, the
5 pump plants should have new pumps and motors. You know,
6 all that work should be done.

7 We repaired two scour sites out at the Fremont
8 Weir, that were threatening to undermine the structure.
9 We put a new roof of the Sacramento maintenance yard,
10 maintenance administration building. Crews are out on
11 Middle Creek replacing the pipe at the pumping plant. We
12 had to wait for Clear Lake to drop in elevation. It drops
13 at this time of year. And so we're replacing that pipe.
14 We'll have it done by the end of the weekend.

15 We're initiating design and permit acquisition on
16 Weir 2 and Wilson Slough Control Structure, which are both
17 on the East Borrow Pit. The Sutter Bypass will be in
18 position where we can go to construction, not next summer,
19 but the following summer. We need the bond to fund that.

20 We're also talking with the Corps at Wadsworth
21 Canal on the south side. We're expecting that the Corps
22 will go into construction for a slurry wall next summer.
23 This is something that will be funded through the cost
24 share PL84-99 program. The Corps had intended to go to
25 construction quite a bit earlier on this, and the money

1 was pulled back. And so they have been struggling, but it
2 sounds like the money will be coming, and we'll be able to
3 go to construction next year. There's an under-seepage
4 issue there, that we need to address.

5 Our regulatory compliance program has been working
6 well. I think that forum was used to help expedite all
7 the environmental compliance associated with critical
8 erosion repair. The resource agencies work with us
9 extremely well to expedite that work. Very good group of
10 work -- of individuals associated with the program; very
11 proactive. I think they understand the public safety
12 mission that we're all faced with, and they have been
13 working with us.

14 And we look forward to, in the next months, to
15 really work hard on our Section 404 compliance issues, on
16 our routine maintenance. Standards have been changing
17 with the Corps. And so we're -- we're getting our work
18 out on the table, having some frank discussions with them,
19 and we're confident that we are going to be able to work
20 through our regulatory issues with them.

21 Finally, the Flood Corridor Program, which is a
22 group that Earl Nelson of my staff, he's responsible for.
23 Earl has been working on that for, oh, the past, I think,
24 six years. It's Proposition 13 funding. They distributed
25 \$4 million on ten active projects and initially had 20.

1 They had finished ten before this year. They finished
2 another two this year, so Earl's program is moving along.

3 With that, I'm open for any questions.

4 CHAIRPERSON CARTER: Any questions for
5 Mr. Swanson?

6 VICE PRESIDENT HODGKINS: Keith, isn't there
7 somebody we should beat up on, to help? That's an awful
8 nice pitch.

9 I had a minor question, I think, to the point
10 of -- first line of your written report says "office
11 staff." What you mean is, you have added 24 people to
12 staff in flood maintenance?

13 MR. SWANSON: Flood maintenance office. My
14 office, you know, part of the division of Flood
15 Management.

16 VICE PRESIDENT HODGKINS: These are field people
17 in many instances?

18 MR. SWANSON: Maybe half of people are field;
19 maybe half of them are office.

20 SECRETARY DOHERTY: I might add that Keith gave me
21 a wonderful tour of the Bear River and the Dry Creek area
22 where the clearing is going on, and of O'Conner Lakes all
23 of the plantings of the elderberries there. And I
24 appreciated it. It gave me a good comprehensive overview
25 of things. So thank you very much.

1 MR. SWANSON: Thank you for coming. And we would
2 extend offers of tours to see the areas that we
3 maintained, to any of the other board members, if you have
4 time. I would love to take you out and show you the kind
5 of things that we're faced with, but really the progress
6 that we're making. Because I think, you know, there's
7 some real positive things occurring right now.

8 CHAIRPERSON CARTER: Any more questions for
9 Mr. Swanson?

10 BOARD MEMBER BURROUGHS: Just great job.

11 CHAIRPERSON CARTER: Thank you very much.

12 Do you have any more, Mr. Bardini?

13 MR. BARDINI: I don't. I just wanted to -- Gary
14 Bardini. Again, any other broader questions that the
15 Board has, we're certainly open to entertain those at this
16 time.

17 BOARD MEMBER BURROUGHS: We appreciate all the
18 good work you do.

19 CHAIRPERSON CARTER: We're going to be ready?

20 MR. BARDINI: The answer is, yes, we're always
21 ready. Are we ready for the big one? Well, obviously
22 we're going to do our best. Thank you.

23 CHAIRPERSON CARTER: All right. Thank you very
24 much. Appreciate it.

25 Okay. Now we're on to Item 16, Board Member

1 Comments.

2 If members of the Board don't mind, maybe if we
3 could have Report of the Activities of General Manager
4 first, and then follow that with Board Member Comments.

5 Is that okay with you?

6 GENERAL MANAGER PUNIA: That's fine.

7 CHAIRPERSON CARTER: Let's do that.

8 GENERAL MANAGER PUNIA: Jay Punia, General
9 Manager, Reclamation Board.

10 Just like to give all employees -- I want to
11 acknowledge that the Rec Board staff is working very hard.
12 I think I have seen people that are working late, until
13 6:00 or 7:00, and then coming 7:30 to review, so that we
14 can have the certification to the U.S. Army Corps of
15 Engineers. And I'm referring to our attorney, Scott
16 Morgan, yesterday worked late, came early, so that we
17 could have our certification to the U.S. Army Corps of
18 Engineers as needed.

19 In addition to our emergency site permits, we have
20 issued ten regular permit in the month of last month.

21 And I will highlight some of the organization
22 efforts: Three that were Levee Improvement Authority. I
23 think this is a little bit disturbing that they started
24 work without obtaining the permits.

25 SECRETARY DOHERTY: What was that?

1 GENERAL MANAGER PUNIA: Three River Levee
2 Improvement Authority. So subsequently, our staff
3 acknowledges that they are working without the permit, so
4 stop order. DWR was directed to issue a stop order. And
5 subsequently, they stopped work as they should. And then
6 staff worked hard, and Steve Bradley and Mike
7 Mirmazaheri -- and a permit was issued the next day so
8 that they can start their work quickly, without any major
9 delays to the project.

10 And during this process, it was observed that some
11 of the works may not be meeting the permit conditions.
12 Subsequently, the chief engineer met with the Three River
13 Levee Authority staff and acknowledged that the work is
14 done according to the permit condition, so there was no
15 need to remove some of material as originally was
16 envisioned, and then the permits were issued and the work
17 started again.

18 As all of us know that levee raises and the
19 hydraulic impacts is of major concerns to the Board, and
20 we have to come up with some recommendation to the Board.

21 It's a two-prong approach: One, the DWR is
22 directing the legal staff, and Scott will be working with
23 the DWR legal staff to come up with a legal position.

24 On the other side, we are working with DWR to
25 issue a task order to a private consulting firm so that

1 they can talk to various people outside and inside the
2 DWR, and then work within a working group to come up with
3 a position which we can present to the Board, hopefully
4 early part of next year.

5 My goal is to come to you in February or March
6 timeframe, where we have a position we can recommend to
7 the Board for consideration. We have a consultant on
8 board. Our first meeting is scheduled next week.

9 On the River Partners Project, Scott Morgan and
10 myself met with the Resources Agency. The meeting was
11 requested by the Resources Agency. The River Partners
12 project is funded by the Wildlife Conservation Board, and
13 obviously the Board hadn't approved the projects, so
14 Wildlife Conservation Board expressed some concern to the
15 Resources Agency, and the meeting was called.

16 And the direction from the Resources Agency is
17 similar to what the Board gave the direction, that the Rec
18 Board staff should work with both parties, the River
19 Partners, and LD3 so that they can reach some kind of a
20 consensus and then we will back to the Board.

21 So Scott Morgan and I will be working with both
22 parties so that we can reach some kind of a middle ground,
23 and we can come back to the Board for consideration of
24 that permit.

25 San Joaquin River Settlement Implementation Team,

1 Dan Fua has been nominated a permanent member of the
2 Implementation Team, and he has gracefully accepted the
3 nomination. And he will be meeting with DWR and
4 Department of Fish and Game on that Settlement Agreement
5 Team -- Implementation Team. And he will be keeping the
6 Rec Board informed on the progress of this San Joaquin
7 Settlement Implementation.

8 As you may recall, I reported last time that we
9 have submitted a Budget Change Proposal to augment the
10 Reclamation Board staff.

11 The proposal was to add one engineer and one
12 administrative staff and one-time 500,000 augmentation.
13 Unfortunately, the Department of Finance has sent that
14 proposal back along with DWR Budget Change Proposal, and
15 our proposal was tied to the bond funding and that we need
16 additional staff to implement the bond.

17 The Department of Finance comments are that our
18 Budget Change Proposal is not meeting the objective of the
19 bond, so they sent it back, and we will be submitting it
20 back to the Department of Finance with additional
21 information.

22 NRDC lawsuits, Scott and Nancy and Steve worked
23 hard in extended hours. I want to let the Board know the
24 number of days I saw the staff working up to 7:00 p.m.,
25 gathering all the information so that we can have all the

1 information gathered and provided to the Attorney
2 General's Office. So I'm assuming it's coming to a close.

3 Scott, maybe a quick comment?

4 LEGAL COUNSEL MORGAN: Well, actually, just for
5 the record, Nancy was in there till 5:30 in the morning
6 one morning, working on this.

7 It is slowly coming to a close, but as I was
8 explaining to folks during a break, as we're discovering
9 about CEQA process, compiling a record involves getting
10 all the documents together; once you have all the
11 documents together, you make copies of everything; go
12 through those copies, stamp every single page, of which we
13 will have many thousands; index what all those pages are;
14 go through and strike out all confidential material; make
15 a record of all the things that you've excised from the
16 record as being confidential; and send the whole package
17 out for publication; and it comes out as a series of bound
18 books that are sent to court and the parties. That's a
19 couple-of-week process. Once you have the record
20 written -- we're still working on getting the record
21 ready. We're very close to being finished. Most of what
22 happens after that is fairly mechanical. We're about
23 ready to be done with this.

24 GENERAL MANAGER PUNIA: As Jeremy mentioned, the
25 inspection of the completed works -- U.S. Army Corps of

1 Engineers have issued a new guidance -- the U.S. Army
2 Corps of Engineers have issued a new manual for inspection
3 of the flood control project. The manual pertains to the
4 non-federal flood control project only.

5 But ultimately, the Corps is going to issue a
6 manual for the federal flood control project also. In the
7 meantime, the new guidance is saying that the Corps will
8 apply the guidance given in the manual, which is designed
9 for non-federal flood control projects.

10 The basic difference between previous guidance and
11 this guidance is that if the district is not meeting even
12 one standard, that if their gain is not functioning to the
13 Corps's guidance, it's saying that the district will be
14 rated M or U, that the -- minimally satisfactory or
15 unsatisfactory.

16 Once it's under those categories, then they are
17 saying that it will be not eligible for PL84-99 rehab
18 assistance from the U.S. Army Corps of Engineers. So it
19 has a huge implication. Based upon that guidance, there
20 will be a lot of districts that will not qualify for
21 PL84-99 rehab assistance from the U.S. Army Corps of
22 Engineers.

23 We are meeting with the Corps, DWR staff, and we
24 are inviting the local reclamation districts also. We
25 have a meeting with the Central Valley Flood Control

1 Association so that they are involved and can provide the
2 input to the U.S. Army Corps of Engineers. And we will
3 have workshops. We will inform the locals, and give them
4 some time -- and make a case to the U.S. Army Corps of
5 Engineers that the local district should have some time to
6 digest this information and then make changes so that they
7 are not D-listed from PL84-99 levee rehab assistance. So
8 we will be keeping you informed, and we may invite the
9 Corps down the line so that they can give you a detailed
10 briefing on this subject also.

11 DWR inspection program; as Jeremy mentioned, we
12 are making some progress. Originally, the local districts
13 were reluctant to accept this responsibility that they
14 would perform inspections. I think what we're sensing is
15 they were reluctant from the legal liability issues. So
16 we had DWR and we met with the Central Valley Flood
17 Control Association in trying to understand the concerns
18 so that we can address their concerns, and then they are
19 willing to help the DWR in reporting those inspections.
20 So we are having those ongoing meetings among the locals,
21 DWR, and the Rec Board staff.

22 That's it, what I had to report.

23 If there are any questions, I will try to answer
24 them.

25 BOARD MEMBER BURROUGHS: I have question on your

1 recent meeting.

2 Did the local -- did they have any comments or
3 questions that you could share with us?

4 GENERAL MANAGER PUNIA: On the inspection of the
5 completed report? They are obviously concerned. They are
6 sensing that there will be a lot of districts which may
7 not be qualifying for the PL84-99 assistance, so they are
8 expressing a lot of concerns and demanding or asking us
9 that we should work with the Corps to get some more time
10 so they can fix some of those minor things, so their
11 districts are not D-listed from that.

12 BOARD MEMBER BURROUGHS: Did they state how much
13 more time they need?

14 GENERAL MANAGER PUNIA: I think it will be
15 negotiated. We are at least -- the Corps is planning to
16 send the letters, based upon our recent negotiation with
17 the Corps. The Corps is not going to issue those letters
18 until April. So our thinking is that at least if they
19 give us the letter by April, then we may have until next
20 flood season to fix those problems. But those things are
21 being discussed and being negotiated at this time.

22 BOARD MEMBER BURROUGHS: Thank you.

23 CHAIRPERSON CARTER: Any other questions for
24 Mr. Punia?

25 Okay. Thank you very much for a very

1 comprehensive report.

2 Now on to Board Member Comments.

3 A couple things: I think Butch had something that
4 he wants to share with us, that is related to strategic
5 plan and to some of the burning issues that we have been
6 kind of touching on throughout the day. But he had some
7 thoughts in terms of how he might approach that situation.

8 Lori also passed out a list of the task leader
9 assignments. This is -- this represents my understanding
10 of what those are today. I pass it out just so that if
11 it's wrong, let me know. If there are tasks that exist
12 that are missing, please let me know. Or if there's a
13 task that you are on and you don't want to be on, let me
14 know, and vice versa.

15 So that's just kind of FYI. And this is actually
16 just a checklist that I use in the meeting when we go
17 through task leader reports, is to jot down notes.

18 Just bring me up to speed on where we stand on
19 that, if there are any corrections to be made on that
20 list.

21 SECRETARY DOHERTY: After the meeting?

22 CHAIRPERSON CARTER: Yeah, just off-line is fine,
23 I think.

24 SECRETARY DOHERTY: Okay.

25 CHAIRPERSON CARTER: So Butch, do you want to kick

1 it off?

2 VICE PRESIDENT HODGKINS: No, I'm not sure I do.

3 But a couple of things. I still am not moving the
4 strategic plan forward. And I need to get to work and do
5 that. And I will spend some time with Jay, understanding
6 what we have to do for surveying our contractor and see if
7 we can't get, at the very least, a statement -- a request
8 for interest out.

9 I think the other item that is worthy of some
10 discussion is we have started down the road here with the
11 work that Rec Board staff and DWR are undertaking in
12 looking at levee hydraulic mitigation issues. The task
13 order I think -- did you distribute it to everybody or
14 just to --

15 GENERAL MANAGER PUNIA: I think on that list, just
16 you and Ben this time.

17 VICE PRESIDENT HODGKINS: The work there is
18 primarily -- it appears, and if it's okay, I'm going to
19 attend the meeting next week to have a better
20 understanding.

21 But it's primarily -- it would appear, focused on
22 figuring out how you identify whether or not there are
23 hydraulic impacts and how you measure them.

24 That's hard on one hand, because we got the Corps
25 and the state and local agencies that don't necessarily

1 have to come to agreement, but at least there has to be a
2 process established.

3 But the more difficult issue is going to be the
4 policy -- the policy issues associated with what
5 constitutes mitigation.

6 And I think Ben and I are both interested in
7 trying to figure out how we can meld our desire -- or
8 perhaps if the rest of the Board's interested, get the
9 Board involved collecting some information and perhaps
10 formulating some recommendations on how you mitigate with
11 the -- with the technical staff.

12 And while I don't think we're -- we had talked
13 about simply organizing some workshops that would be
14 sponsored by the Board, to have folks come in and tell us
15 what they think. I think we're interested in knowing
16 whether the Board's interested in getting into that issue.
17 And if there is an interest in doing that, then I think we
18 have some more work to do, to make sure we coordinate with
19 the technical work. And it would be very easy to go out
20 and do workshops where you would get -- I mean, I think it
21 has to be focused to some extent. Our comments are going
22 to come in all over the wall in terms of what people think
23 is an approach to this. So I wanted to bring that up.

24 Is that what you were referring to primarily, Ben?

25 CHAIRPERSON CARTER: Yes, I think so.

1 And I think that the Board is not going to have
2 any choice in terms of getting involved. And the
3 discussion that Butch and I had, really, was, Do we want
4 to -- do we want to have to react to that or do we want to
5 try and stay ahead of the power curve and -- and to get
6 some thoughts down prior to it coming to a head in a
7 certain project or a certain effort?

8 So -- and it is -- the policy issue, the technical
9 and the policy issue have direct impact on this effort
10 that's being -- what has been discussed for the last
11 couple of years, which is, What is the state's plan of
12 flood control? And certainly, this is -- this is a key
13 element of that, a small piece of that. But -- and as a
14 result, reflects directly on kind of our strategic plan.

15 So with what Butch says in terms of push the
16 strategic plan, the entire plan, he's correct. But this
17 is a pretty important part of it. And we thought that
18 maybe if we -- if we took this piece of it, we could
19 establish a meeting of the minds in terms of where the
20 Board wants to go from a policy perspective, based on some
21 of the technical analysis, that staff is working on, and
22 others, and be ahead of the power curve on this state plan
23 of flood control and this particular hydraulic mitigation
24 and levee raises. Those are all rearing their heads in
25 front of us, in fairly short order.

1 VICE PRESIDENT HODGKINS: And I think in our
2 executive meeting, the director of DWR was there, and one
3 of his comments is, you know, there is a new state plan of
4 flood control coming, but probably that has to be approved
5 by the Legislature. So that's not going to happen in any
6 short period of time. Depending on how it gets defined by
7 DWR, how technical it has to be, how much analysis has to
8 be done, seems to me it could take easily two to five
9 years to get a new plan of flood control.

10 So the other thing that I'm sure you recognize is,
11 we're going to have to deal with levee raising and
12 hydraulic impacts before there is an intrastate plan of
13 flood control. And so we're not going to get -- we're not
14 necessarily -- we may not get the benefit of having any
15 leadership exercised by the Legislature on this issue. So
16 it's going to be a tough one to work through.

17 BOARD MEMBER BURROUGHS: I applaud the effort to
18 have a proactive approach with the workshops.

19 CHAIRPERSON CARTER: Okay.

20 SECRETARY DOHERTY: Surely, there are guidelines
21 already established for us. I received some material in
22 the very beginning, which I read. I don't think that
23 we're operating in the dark. I think what you are
24 suggesting is a good idea, though, because there are some
25 things that are going to happen now that happened back in

1 history, and now we're facing those same things again.

2 Are we going to approach them the same way we did
3 in the early years, or are we going to change our plans?

4 VICE PRESIDENT HODGKINS: Let's put the question
5 to staff: Do we have guidance? Do we have a policy?

6 CHIEF ENGINEER BRADLEY: What policy is and what
7 guidance are you referring to?

8 VICE PRESIDENT HODGKINS: Raising levees and
9 hydraulic mitigation.

10 CHIEF ENGINEER BRADLEY: If you raise levees, you
11 are changing the plan of flood control. You are approving
12 a higher level of protection for one area at the expense
13 of other areas.

14 Those impacts need to be evaluated, and somebody
15 has to mitigate them. Or you as a Board can decide to go
16 ahead with that, and if something happens, the State will
17 pay. I mean, I would expect the State to pay. I'm not a
18 legal counsel.

19 CHAIRPERSON CARTER: Scott?

20 LEGAL COUNSEL MORGAN: Specifically, Is there
21 guidance or is there a general guidance documents on how
22 you address this? And I think the answer is no. There is
23 no guidance we have in our regulations and in the statutes
24 of Water Code referenced to the ability to require
25 mitigation for hydraulic impacts. And that's it.

1 So the issue exists. Previous legislatures and
2 the Board, when it adopted regulations years ago,
3 recognizes this is an issue that's been around for a long
4 time. But they don't have a special section on what
5 hydraulic impacts require mitigation and what that
6 mitigation can look like.

7 So beyond the fact that the Board has authority to
8 require mitigation for hydraulic impacts, there's no
9 further specific guidance. So you have a relatively blank
10 slate to work with, here. Could be good or bad.

11 VICE PRESIDENT HODGKINS: That doesn't necessarily
12 make it fun.

13 Anyway, it's -- it's a difficult issue. And I had
14 promised to put my thoughts down and send them to Ben
15 again. And he noted that the e-mail came through at 1:30
16 in the morning. It is difficult to sort your way through
17 it when you know something about it.

18 For instance, I thought I knew what freeboard is,
19 but when it came to looking at the Arreola case, which is
20 one of the more recent cases on taking reasonableness, it
21 turned out, my definition was a little out of date or at
22 least not necessarily consistent.

23 And so another issue that I think is, again, very
24 interesting to think about is, what's the -- what is the
25 base case here on which you measure the impacts? Because

1 the system was first described in a report in 1906,
2 authorized in, I think, 1917 at the state level, or 1924,
3 '25, at the federal level. We say that the completed
4 system is the one represented in the Sacramento site, by
5 the '57 design profile.

6 So there's a whole bunch of different points along
7 the way about what was promised, and what is the state's
8 current plan. And that's not even touching on the fact
9 that some of us suspect that much of the system couldn't
10 deliver in conformance with the '57 profile. So it's a
11 really challenging thing to try to work your way through,
12 in a way that -- particularly that could be understood by
13 somebody who hasn't, you know, sort of lived with this
14 thing for a while.

15 CHAIRPERSON CARTER: So I think -- I think the
16 next steps are, we have to -- we being, I think, Butch and
17 myself and Jay and Scott, we need to get together and try
18 to figure out how to coordinate these two pieces of this
19 effort. Because there's -- I think there is a good fit to
20 figure out what that process is going to look like and to
21 then move forward. So they are intended to complement
22 each other.

23 VICE PRESIDENT HODGKINS: Yes. Absolutely.

24 CHAIRPERSON CARTER: So --

25 SECRETARY DOHERTY: So when? Do it.

1 CHAIRPERSON CARTER: Well, the first meeting is
2 what Jay has called, which is the 21st, which is next
3 Monday? Tuesday?

4 GENERAL MANAGER PUNIA: It got changed. Some of
5 the DWR participants got busy on the 21st. So now it's
6 22nd, from 1:30 to 3:30. It's a general meeting with DWR
7 and the Rec Board staff.

8 CHAIRPERSON CARTER: So, and that is -- again,
9 we -- as the Rec Board, we have to be careful of not
10 violating any Bagley-Keene. Butch is planning on
11 attending. And we could have one more Board member there
12 without disrupting this, but no more than one more. Okay?

13 SECRETARY DOHERTY: So you're going to meet on
14 November 22nd with the Department of Water Resources
15 staff, and Scott and yourself --

16 GENERAL MANAGER PUNIA: Steve Bradley, Nancy
17 Finch, Dan Fua, and Ricardo Pineda.

18 And we have made an on-site committee, which is
19 Rod Mayer, Les Harder, myself; and then we have a working
20 group committee in which Scott, Nancy, Steve Bradley, Anna
21 Hegedus, Richardo Pineda, Dan Fua, and then we'll also be
22 interviewing several people from outside, consultants,
23 countrymen, and other people who have knowledge in this
24 area and, some people from the industry so that we can
25 hear some other perspective of DWR also. And we will come

1 back for some kind of presentation to the Board for its
2 consideration.

3 BOARD MEMBER BURROUGHS: If you have a space open,
4 I would like to try to come. If you have it full with
5 Board members that are attending, that's fine. Did you
6 say it's --

7 CHAIRPERSON CARTER: You're welcome to attend.

8 BOARD MEMBER BURROUGHS: Okay. I will try.

9 CHAIRPERSON CARTER: Okay. Very good.

10 Any other Board comments?

11 BOARD MEMBER BURROUGHS: I would just like to ask
12 the staff, with the workload -- and it seems like we've
13 just been ongoing with catchup and this overload of work,
14 Steve Bradley, how are you doing, and do you need some
15 support help?

16 CHIEF ENGINEER BRADLEY: I'm actually starting to
17 catch up.

18 I gave you, I think -- I believe at the last
19 meeting, I laid out that I wanted to get the River Islands
20 permit taken care of, review the Sac River Corridor
21 Planning Forum, and then move on to West Sac. I've got
22 the permit drafted. It's with legal, depending on the
23 NRDC case, they will have to look at the draft permit for
24 River Islands.

25 I'm working on the Sac River Corridor Planning

1 Forum. I'm probably about -- probably not quite halfway
2 through that. I finished Sections 1 and 2. I have
3 started on 3, which is the actual guidelines. Hopefully I
4 will be done -- I was thinking next week, but it's already
5 getting pretty chopped up with some meetings. But my
6 schedule is more or less to be done by the end of this
7 month. I will be fairly close to that, be working on West
8 Sacramento by the end of the month, I expect.

9 BOARD MEMBER BURROUGHS: Okay. Thank you. Would
10 you let us, the Board know, if you feel like you're not
11 having enough time to get the workload, if we need to push
12 for more help.

13 CHIEF ENGINEER BRADLEY: Sure. I will let the
14 general manager know.

15 BOARD MEMBER BURROUGHS: That would be great.

16 And then Lorraine, I just -- we welcome you here
17 to our staff today, and I wanted to also ask you to --
18 Lori's available to help through this transition. And,
19 you know, please keep us posted of how things are coming
20 in, timewise.

21 Thank you. And I guess Scott, I was just going to
22 ask -- is Nancy, was she not able to come today or....

23 LEGAL COUNSEL MORGAN: Nancy is training in San
24 Francisco, taking a class of Endangered Species Act so she
25 will come back and be able to update the Board on how far

1 to stay away from the elderberries.

2 (Laughter.)

3 BOARD MEMBER BURROUGHS: Thank you.

4 SECRETARY DOHERTY: I think perhaps, Butch, when
5 you get this assemblage of people all together, the makeup
6 of the Board, perhaps, could be addressed -- how many
7 engineers, how many attorneys, how much landowners at
8 risk -- so that you get a broad spectrum of everything.
9 And that way, we don't have to depend upon the staff.
10 Because let's take some space thing out here that you've
11 got a staff, maybe, that you don't agree with. And this
12 way, you would be able to make a consensus on the Board
13 that you're going to develop. So that, I think, is
14 something that might be considered.

15 CHAIRPERSON CARTER: Any other Board comments?

16 Okay.

17 Now we're on to Future Agenda, Item 18.

18 Everybody has in their packet a Draft Agenda for
19 December 15th. We did discuss, in addition to what is
20 there, putting on an item about the Delta Cove-Bethel
21 Island project. So if we can make that happen, we still
22 have the tabled item with regard to River Partners. The
23 Del Rio Project, I don't know if that was on there or not.
24 It wasn't.

25 And if it is appropriate -- if we haven't made any

1 progress on that, then I would just leave it off the
2 agenda and -- or we can leave it on and then just
3 eliminate it. Whatever.

4 Any other items that the Board members wish to
5 include on the agenda for December?

6 SECRETARY DOHERTY: It might not have to be
7 included in December; I might have to find out some more
8 things about it. But up in my part of the country, people
9 are putting gates and padlocking them to block river
10 access because they own land on the other side of the
11 levees, and they are charging a gate fee, which is fine,
12 because then they use that money to clean up the garbage
13 within the river area.

14 But in the process, are they crossing a federal
15 levee? And what's the care that's going to be given to
16 these crossings?

17 It might be something that we need to look into.

18 CHAIRPERSON CARTER: Are these private gates?

19 SECRETARY DOHERTY: Yes, these are private gates.

20 CHAIRPERSON CARTER: Technically, if they put a
21 gate on it --

22 SECRETARY DOHERTY: Well, they may not have it
23 right on the levee. They might have it outside the levee
24 or just on the inside of levee. But they have to use the
25 levee as access.

1 CHAIRPERSON CARTER: Okay.

2 SECRETARY DOHERTY: It might be something for a
3 future one, maybe January. And then I will look into it.

4 CHAIRPERSON CARTER: If they are encroaching upon
5 the levee or our right of way, we would -- we would be
6 worried about that. If they are not, and it doesn't hurt
7 the state plan of flood control, then do we really care?

8 SECRETARY DOHERTY: All I'm saying is, is what
9 about the care of the levee with this constant access,
10 let's say. That's all I was thinking about.

11 CHAIRPERSON CARTER: Extra traffic.

12 SECRETARY DOHERTY: Extra traffic.

13 CHIEF ENGINEER BRADLEY: That would normally
14 require a permit, because we would like to take a look at
15 that. It's one thing that if they put a gate on the levee
16 section, that requires a permit. If they want to -- where
17 they want to make it a public access, that would be
18 something that would require a permit. And we would look
19 at how many trips would be going across it, and what the
20 consequences to the levee would be.

21 If it's just a landowner putting it up to block
22 people and he owns the land, that's something we do a lot
23 of. The public access thing, where they cross the levee a
24 lot, is a little bit different. We do, do those. But we
25 take a pretty hard look at them.

1 Same as somebody who wants to run heavy equipment
2 up and down the levee for various reasons. We take a
3 pretty hard look at that. If it's a one-time trip, we'll
4 probably do that with a letter. If it's a construction
5 project, where they are going to be doing it for several
6 months, we usually take some pretty stringent controls on
7 that. Does that -- heavy equipment, that kind of stuff,
8 you know, just beats the levee down over time. Same with
9 cross-traffic over it.

10 CHAIRPERSON CARTER: This, perhaps, might be
11 something that would come up as part of the levee
12 inspections and encroachments that happen every three
13 months.

14 CHIEF ENGINEER BRADLEY: If they see a new gate,
15 they should be asking about who put it there, why they put
16 it without a permit, issuing a notice of violation for
17 having installed an illegal encroachment without a permit.

18 CHAIRPERSON CARTER: What I would suggest, Lady
19 Bug, if you know specific instances, maybe get with staff
20 and ask the question.

21 SECRETARY DOHERTY: Okay. Sounds good to me.

22 VICE PRESIDENT HODGKINS: I have one more item I
23 would like to talk about, just a little bit.

24 I got two already. But I think Rod told us they
25 were updating their standards on encroachments and

1 developing a new process and procedure for trying to get
2 encroachments cleared. And I think what I've heard in the
3 past is that at the point where the property owner refuses
4 to clear it and if it's more than the Board's -- or the
5 maintenance staff can clear in maintenance, because in the
6 overall scheme of things, these are small issues as far as
7 the state attorney general, I mean the next step is to go
8 to court and get some kind of an order to order the
9 property owners to remove the encroachment, and I think
10 that hasn't happened because there are other things that
11 the AG staff has to do.

12 So the question would be this: I mean, at the
13 local government level, for instance, if you don't pay
14 your sewer bill, they put it on your property taxes. And
15 if you continue not to pay your property taxes, you know,
16 after five years, they can end up owning your property.

17 If we could do that, if we could get -- is it
18 conceivable to talk about the Board looking for somebody
19 that can sponsor legislation that would, in effect, give
20 the Board the authority, in instances of public safety, to
21 go forward and remove or address whatever the problem is,
22 and then put the cost of that on to the property owner's
23 tax bill.

24 Is that something that people would be worth
25 pursuing -- would be worth trying to do?

1 You know, if it's not, we don't want to do it.

2 GENERAL MANAGER PUNIA: I will comment on this.

3 I think the previous chief of the Flood Project
4 Inspection Section, Richard, pursued this. His thought
5 was, if we can send key staff to clear the encroachment
6 and send local RD that will bill, that will be the easiest
7 and most economical way to pursue and clean up the illegal
8 encroachment. He checked with the legal, but the response
9 was that he doesn't -- at this time we don't have
10 authority unless it's given to us, as a new legislation.

11 VICE PRESIDENT HODGKINS: Although I don't think
12 we -- if it were me, I wouldn't want to bill a direct
13 district because then they're just trying to get the money
14 back from the property owner. And it isn't a lot easier
15 for them although -- we have to think about that.

16 I mean, that's an option, because they do have the
17 authority to do these, quote, unquote, auctions of
18 property if their assessment is not paid. So maybe it
19 would work the same.

20 I'm just interested in understanding if the Board
21 members are even interested in pursuing it. It seems to
22 me, particularly, if it is a safety issue, that there
23 ought to be a way to put some teeth into saying, "Get it
24 out of here, or we're going to get it out of here," under
25 either situation. I know it would take legislation, but

1 the question is: Would the Board support it?

2 BOARD MEMBER BURROUGHS: I would like Scott to
3 give a legal comment about that. I thought we did have
4 the authority to do that.

5 LEGAL COUNSEL MORGAN: Well, if there is a eminent
6 threat to the state plan of flood control, there is no
7 question that we can go in and take action to correct it.
8 What we can't do is bill the defending property owner. It
9 might be possible to have -- if the reclamation district
10 does the work, have the cost spread over the benefit of --
11 the entire reclamation would pay. Usually, the problem
12 comes to us for some further legal discussion because
13 staff doesn't like the idea that one person who has put up
14 a defending structure that's going to cost a lot of money
15 to remove doesn't have to pay the full cost, that that
16 cost is going to be spread around the entire reclamation
17 district.

18 But if it's an operation and maintenance issue, if
19 just in the course of maintaining the facilities, you can
20 remove something, even if it costs a little bit of extra
21 money, you can go ahead and do it. You don't need to go
22 through the encroachment enforcement process. But then
23 you don't have the option of just billing that one
24 property owner for that infraction.

25 But if there is a threat to safety, you could go

1 ahead and take action immediately.

2 BOARD MEMBER BURROUGHS: Would you give us
3 comment, please?

4 MR. SWANSON: Yeah, Keith Swanson again.

5 The Water Code has a provision that says that
6 maintaining agencies can remove gates, fences, and
7 vegetation from levees. Other encroachments need a
8 finding of fact from the Reclamation Board.

9 And so if there was something that was offensive,
10 I could come to you, as the maintainer, and say --
11 maintenance area nine, and say, "In this particular
12 project, you know, maintenance area nine, there is a
13 jungle gym that encroaches on the levee, and we think it
14 needs to come out." You could, you know, agree with that
15 finding of fact. And then I think theoretically, we can
16 go and remove it.

17 Where the problem lies is, you know, are we going
18 to really empower our maintenance agencies to go out and
19 do some of these things, because they are likely to lead
20 to litigation in the future.

21 And so one of the things was that, well, as an
22 agency or, you know, department we're not going to take
23 that responsibility; we're going to work with the attorney
24 general and get the attorney general to take them to court
25 and force them to do the work. And you know, we're

1 probably at a point where we need to start making some
2 hard decisions, and if there's a public safety issue, we
3 just need to go do it and then maybe deal with the
4 consequences later.

5 But I think we need to be, you know, unified in
6 that type of action and make sure we all agree. Because
7 when, you know, Channel 10 shows up and says, "Jeez, you
8 did this to this poor disabled couple," you know, are we
9 going to be willing to stand up and say, "Yeah, we did do
10 that, and we did it because we thought it was a public
11 safety issue, we thought it was important, and we gave
12 clear direction to -- to maintenance areas. The
13 maintenance -- the LD or RD or the state to go take care
14 of the problem."

15 BOARD MEMBER BURROUGHS: Thank you.

16 CHAIRPERSON CARTER: Okay. I think -- I'm not
17 sure we're there yet. I think that, in general, the Board
18 is supportive of trying to maintain the structures and
19 facilities.

20 I don't know if the Board is going to actively go
21 out and solicit or let the Legislature go do that. That
22 might be more in the purview of DWR, actually, as the
23 maintaining agency.

24 That's something that we probably ought to bring
25 up with the director of DWR at the next Executive

1 Committee Meeting.

2 VICE PRESIDENT HODGKINS: Okay.

3 CHAIRPERSON CARTER: That's what I would suggest.

4 VICE PRESIDENT HODGKINS: I think we have some
5 revisions coming forward on dealing with encroachment
6 permits. And I think helping the Board to understand what
7 the issues are, associated with getting the legal
8 encroachments approved, ought to be part of that, so we
9 can begin to think about what we want to do.

10 And I'm finding, my understanding is -- and I
11 thought we may have that, the ability to move them; we
12 just haven't been doing it because we don't want to deal
13 with the fallout. Okay.

14 CHAIRPERSON CARTER: Any other -- any other Board
15 comments?

16 Okay. You've got a sneak preview of the future
17 agenda. If there are any other additional --

18 LEGAL COUNSEL MORGAN: I don't have a copy of the
19 draft for December. I don't know if the Sac River Forum
20 has been -- they have been trying to get put on. And I
21 don't know if that's going to be ready in December or not.

22 CHIEF ENGINEER BRADLEY: I don't think by the time
23 I finish my comments and I coordinate with them, we will
24 be ready for December.

25 LEGAL COUNSEL MORGAN: And I don't know about

1 American River. 10.C was cancelled on this particular
2 meeting. I don't know if it will be ready for November
3 [sic].

4 GENERAL MANAGER PUNIA: I think they are still
5 negotiating. I cannot say they will be ready or not, but
6 they are working with staff to reach some kind of meeting
7 of the mind.

8 CHIEF ENGINEER BRADLEY: That was moved to
9 December, when we have the final agenda meeting at that
10 time. They are either going to be ready or not ready.

11 At the moment, it will be -- it should have been
12 on the December agenda, because it was just -- they
13 removed it -- we removed it from this agenda, but when we
14 usually remove something from the agenda, we usually move
15 it forward.

16 It's up to DWR to tell us whether they are going
17 to be ready or not, when they have our agenda.

18 Does that make sense?

19 LEGAL COUNSEL MORGAN: Yes. Are you asking me?

20 CHAIRPERSON CARTER: We can go ahead and
21 tentatively make a note and ask the question when we have
22 the final agenda meeting. Okay?

23 Very good.

24 Well, if there's nothing else, then I believe we
25 are adjourned.

1 (The Reclamation Board meeting adjourned at
2 3:16 p.m.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing Reclamation Board Meeting was reported in
6 shorthand by me, Kathryn S. Kenyon, a Certified Shorthand
7 Reporter of the State of California, and thereafter
8 transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said meeting nor in any
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 29th day of November, 2006.

14

15

16

17

18

19

20

21

22 KATHRYN S. KENYON, CSR

23 Certified Shorthand Reporter

24 License No. 13061

25